706.

SUPREME COURT OF THE UNITED STATES.

No. 151.

HENRY WHEATON AND ROBERT DONALDSON, APPELLANTS,

vs.

RICHARD PETERS AND JOHN GRIGG.

ON APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

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J. & G. S. Gideon, printers.

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Title.

Pleas before the honorable the judges of the circuit court of the United States in and for the district of Pennsylvania, in the third circuit, at Philadelphia, of October sessions, A. D. 1831. No. 1.

It is thus contained.

HENRY WHEATON & Robert Donaldson, citizens of the State of New York, vs. RICHARD PETERS & John Grigg, citizens of State of Pennsylvania. } In Equity.

Bill.

To the honorable the judges of the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit:

Humbly complaining, show unto your honors your orators, Henry Wheaton and Robert Donaldson, citizens of the State of New York, that your orator, Henry Wheaton, is the author of twelve books or volumes of the Reports of Cases Argued and Adjudged in the Supreme Court of the United States, and commonly known as Wheaton's Reports; the said twelve volumes forming a connected and complete series of the reports of the decisions of the said court from the commencement of February term of said court, in the year one thousand eight hundred and sixteen, when your said orator, Henry Wheaton, first began to report, until the end of January term, one thousand eight hundred and twenty-seven, when your said orator ceased reporting.

And your orators further show unto your honors, that your said orator, Henry Wheaton, commenced and discharged his duties as such reporter with the approbation, and by the appointment, of the said court; and that, in order to induce your said orator, Henry Wheaton, to undertake such duties, and attend the terms of the said court for the purpose of reporting its decisions, the justices of the said court engaged to furnish to your said orator alone, and for his sole benefit, all such writings or memoranda as they might make of their decisions, and which would aid him in reporting the said cases.

And your orators further show unto your honors, that your said orator, Henry Wheaton, accordingly made the business of reporting the decision of the said court his chief employment; always, during the period of the said reports, having left his residence and business in the city of New York to attend the sittings of the said court at Washington during its terms, and having, during every term, devoted himself to taking notes of the cases, arguments, and decisions, and to compiling such materials as were necessary for his said reports.

That no one besides your orator attended the said court to take such

notes or compile such materials, and that the justices of the said court never furnished their opinions, or any notes of their decisions, during the said period, to any other person than your said orator; and that your said orator alone preserved the said notes, opinions, and other materials from which his said volumes were formed; and that having retained such materials in his possession exclusively, he finally destroyed the same.

And your orators further show unto your honors, that, soon after the end of each term of the said court, your said orator, Henry Wheaton, caused to be published a volume containing the reports of the decisions of such term. That the first of the said volumes was published in the latter part of the year one thousand eight hundred and sixteen, or beginning of the year one thousand eight hundred and seventeen; and that, prior to the publication thereof, your said orator, Henry Wheaton, sold, assigned, and made over his copy-right in the said volume to Mathew Carey of Philadelphia, in the said eastern district of Pennsylvania. That the said Mathew Carey, before the publication of the said volume, as proprietor thereof, deposited a printed copy of the title page of such book or volume in the clerk's office of the district court of the said eastern district of Pennsylvania, where the said Mathew Carey then resided. That the same was recorded by the said clerk according to law, and that a copy of the said record was caused, by the said Mathew Carey, to be inserted at full length in the page immediately following the title of the said book or volume. And your orators further show unto your honors, that they have been informed by the said Mathew Carey, and verily believe, that all things which are necessary and requisite to be done in and by the provisions of the acts of the Congress of the United States, passed the thirty-first day of May, one thousand seven hundred and ninety, and the twenty-ninth day of April, one thousand eight hundred and two, for the purpose of securing to authors and proprietors the copy-rights of books, and for other purposes, in order to entitle the said Matthew Carey to the benefit of the said acts, have been done. And your orators further show unto your honors that, by these means, the said Matthew Carey became the sole proprietor of the copy of the said volume, and acquired the sole right of printing, reprinting, publishing, and vending the same, and became entitled to all the advantages and privileges provided in and by the said acts of Congress. And your orators further show unto your honors, that the said Matthew Carey, having afterwards conveyed the said copy-right in the said volume to Matthew Carey, Henry C. Carey, and Isaac Lea, trading together in partnership under the firm of Matthew Carey and Sons, the said Matthew Carey, Henry C. Carey, and Isaac Lea, on the eleventh day of September, in the year one thousand eight hundred and twenty one, by an instrument in writing under their several hands and seals, transferred, assigned, and set over to your orator, the said Robert Donaldson, all their right and interest in and to the copy of the said volume; that your orator, the said Robert Donaldson, made the said purchase at the desire of, and by an arrangement with, the said Henry Wheaton, and on his behalf, and with the expectation of a renewal of the right of the

said Henry Wheaton under the provisions of the said acts of Congress, of which renewal your orator, the said Robert Donaldson, was to have the benefit until the first edition and a second edition of the said volume, which the said Robert Donaldson was to publish, should be sold. That your orator, Robert Donaldson, at the time of purchasing the said copy right of the said Matthew Carey and Sons, also purchased of them the residue of the first edition of the said volume then unsold, and, in the year one thousand eight hundred and twenty-seven, published another edition of the said volume, a great part of which still remains unsold.

And your orators further show unto your honors that, for the purpose of continuing to the said Henry Wheaton the exclusive right, under the provisions of the said acts of Congress, to the copy of the said volume for the further term of fourteen years, after the expiration of the term of fourteen years from the recording of the title of the said volume in the clerk's office as aforesaid, your orator, Robert Donaldson, as the agent of the said Henry Wheaton, within six months before the expiration of the said first term of fourteen years, deposited a printed copy of the title of the said volume or book in the clerk's office of the district court of the southern district of New York, where the said Henry Wheaton then resided, and caused the said title to be a second time recorded in the said clerk's office; and also caused a copy of the said record to be a second time published, in a newspaper printed in the said city of New York, for the space of four weeks, and delivered a copy of the said book to the Secretary of State of the United States; and that all the said things were done agreeably to the provisions of the said act of Congress of May thirty-first, one thousand seven hundred and ninety, and within six months before the expiration of the said first term of fourteen years.

And your orators further show unto your honors, that, prior to the publication of the second of the said volumes of reports, and of all the rest of the said volumes respectively, your orator, the said Henry Wheaton, deposited a printed copy of the title page of each of the said books or volumes in the clerk's office of the district court of the said southern district of New York, where the said Henry Wheaton at such times resided. That such copy of the title page of each of the said volumes was recorded by the said clerk according to law; and that a copy of the record relating to each volume respectively was caused by the said Henry Wheaton to be inserted, at full length, in the page immediately following the title of such book or volume; that the said Henry Wheaton also caused a copy of such record relating to each volume respectively, within two months from the date of such record, to be published in a newspaper, printed in the said city of New York, for the space of four weeks. And your orators further show unto your honors, that the said Henry Wheaton not having before the publication of the said second and subsequent volumes assigned or parted with his proprietory interest therein, but having only, as is hereinafter mentioned, sold the privilege of publishing an edition of the same, and being particularly acquainted with the requisites of the said acts of Congress, attended himself to a compliance with such requisites, and the performance of all such acts

as were necessary to be done in order to secure his copy-right in such volumes, and especially to the delivery of a copy thereof, under the provisions of the said acts, to the Secretary of State of the United States within six months after the publication of each volume respectively, to be preserved in the office of the said Secretary of State. And your said orator, Robert Donaldson, further showeth unto your honors, that he has caused inquiries to be made at the office of the said Secretary of State, and has been informed that a copy of each of the said volumes, respectively, was received there within six months after the publication of such volume, was placed in the room appropriated to books delivered under said acts, and has ever since been preserved there; all which your orator Robert Donaldson believes to be true.

That the said Henry Wheaton is now absent at Copenhagen, where he represents the Government of the United States near the court of Denmark; and that your orator, Robert Donaldson, has been unable in his absence to procure or receive any information from him, for the purpose of enabling him to file this, your orator's, bill of complaint. But your said orator, Robert Donaldson, from information received from the said Henry Wheaton formerly, at different times, and especially at the time of the publication of each volume respectively, has no doubt that a copy of each volume, respectively, was so delivered within six months after the publication by the said Henry Wheaton, to the said Secretary of State, to be preserved in his office. And your orators further show unto your honors, that no record or memorandum being required by law to be kept of the depositing of a copy of a book in the Secretary of State's office, according to the provisions of the said acts of Congress of May thirty-first, one thousand seven hundred and ninety, and the same having in many cases been omitted to be done; and, as your orators are informed, there having been the greatest irregularity in this respect in the said Department, and as the books delivered to the said Secretary of State, under the said acts of Congress, are regarded by those belonging to the office in no other light than as forming a library for the office, and are accordingly so received, treated, and used, being often lent out, and being subject to be taken away by the officers of the Government who have occasion to use them, it is now impossible to obtain proof from the proper officers of the said Department, of whom your orators have caused particular inquiries to be made, whether a copy of each of the said volumes of reports was so delivered by the said Henry Wheaton to the Secretary of State.

And your orators further show unto your honors, that, from the examination they have caused to be made in the said Secretary of States' office, it appears that, in a great majority of the cases in which books have been copy-righted, or supposed to have been copy-righted, the said office affords no evidence whether a copy of the book was delivered to the Secretary of State agreeably to the provisions of the said last mentioned act of Congress.

And your said orator, Robert Donaldson, further showeth unto your honors, that he is unable for these reasons, and from the lapse of

time in the absence of the said Henry Wheaton, to furnish any other evidence of the delivery of the said copies than he has hereinbefore done. And your orators humbly insist, that, if they have been, or should be, unable to prove that a copy was delivered to the said Secretary of State in conformity with the provisions of the said act of one thousand seven hundred and ninety, your orators would still be entitled to the benefits of the said acts. And your orators further show unto your honors, that, before the publication of the said second volume of the said reports, the said Henry Wheaton, by an agreement in writing, dated the twenty-eighth day of April, in the year one thousand eight hundred and seventeen, sold to *Charles* S. Van Winkle and Charles Wiley the right and privilege of publishing an edition of one thousand copies of the said volume, and thereby agreed that he would not publish, or cause or suffer to be published, another edition of the same until the whole of the said edition published by them should be exhausted and sold; which said right and privilege the said *Charles* S. Van Winkle and Charles Wiley, on the twenty-ninth day of the said month of April, by a memorandum in writing, assigned, made over, and sold to your said orator, Robert Donaldson.

And your orators further show unto your honors, that, before the publication of the third and subsequent volumes of the said reports, respectively, the said Henry Wheaton, by an agreement in writing, sold to your orator, the said Robert Donaldson, the right and privilege of publishing an edition of each of the said volumes; that is to say, an edition of one thousand copies of the third volume, of fifteen hundred copies of the twelfth volume, and of twelve hundred and fifty of each of the intermediate volumes; and agreed with your said orator, Robert Donaldson, that he would not publish, or cause or suffer to be published, another edition thereof until such first edition should be sold. And your orators further show unto your honors, that no other editions of the said second and subsequent volumes have ever been published, but that a great part of the edition of each volume, so published, still remains unsold in the hands of your orator, Robert Donaldson; and that the property which your said orator now has in such unsold portions of the said editions, is of the value of from twenty-five to thirty thousand dollars. And your orators charge, that the property belonging to and remaining in your orator, the said Henry Wheaton, in the copy of the said volumes of reports, is of the value of more than two thousand dollars for each volume; and that, if the said defendants have a right to publish the same, their profits will be more than two thousand dollars on each volume; and that, if they are to be allowed so to publish the same, your orator's property in the said editions, and in the copy of the said volumes, will be wholly destroyed in value.

And your orators further show unto your honors, that they have, until the publication lately of a book called Peters's Condensed Reports, as your orators will more particularly state hereafter, been in the uninterrupted enjoyment of the copy-right of the said several volumes of reports, and that their rights in and to the copy of the same have never,

until the said publication was contemplated, been doubted, questioned, or invaded.

And your orators further show unto your honors, that Richard Peters, a citizen of the State of Pennsylvania, has lately edited, and caused to be published and sold, and John Grigg, also a citizen of the said State of Pennsylvania, hath printed, and assisted the said Richard Peters in the publication and sale of a book or volume purporting to contain, and by them declared to contain, the said first volume of Wheaton's Reports, which said book or volume. so published by the said Richard Peters and John Grigg, is entitled as follows: "Condensed Reports of Cases in the Supreme Court of the United States, containing the whole series of the decisions of the Court from its organization to the commencement of Peters's Reports, at January term, 1827, with copious notes of parallel cases in the Supreme and Circuit Courts of the United States. Edited by Richard Peters, Counsellor at Law, and Reporter of the Decisions of the Supreme Court of the United States. Vol. 3. From February term, 1814, to February term, 1816, inclusive. Philadelphia; John Grigg, No. 9, North Fourth street; 1831.

And your orators charge, that the said book does contain, without any material abbreviation or alteration, all the reports of cases contained in the said first volume of Wheaton's Reports, and that the publication and sale thereof is a direct violation of your orators' said rights.

And your orators charge, that the said defendants, Richard Peters and John Grigg, have sold, or caused to be sold, a great number of copies of the said book so published by them as aforesaid, and respectively hath or have many copies more of the said book printed ready for sale; and that they, the said defendants, are continuing to sell the same, and that they have made considerable sums, and have made, and do make, considerable profit, by the sale of such book.

And your orators further show unto your honors, that the said Richard Peters and John Grigg threaten, and intend, to continue the publication and sale of the other volumes of the said reports of your said orator, Henry Wheaton, in future volumes of the said Condensed Reports by the said Richard Peters, the series of which has been so commenced by them; which intention is avowed by them in two several printed circulars or advertisements published by them, and copies of which your orators, for greater certainty, annex to this their bill of complaint, and pray that the same may be taken and declared to be a part of the same; the first of which said circulars, marked A, was published from two to three years since, as your orators charge; and the second, marked B, was published by them about six or eight weeks since.

And your orators further charge, that, after the publication of the said first circular, the said Richard Peters and John Grigg caused it to be given out, for the purpose of deceiving your orators, that the intention to publish the said Wheaton's Reports had been abandoned, and your orators were thereby deceived and prevented from applying to this honorable court to restrain the publication of the same in season, and that the second of the said circulars was not published until the said third volume of Condensed Reports was ready for publication, or was published.

And your orators further show unto your honors, that the said Richard Peters, in making his said third volume of Condensed Reports, has taken the statement of the cases, and decisions of the court, and the abstracts thereof, at the term of February, one thousand eight hundred and sixteen, from the said first volume of Wheaton's Reports; and your orators charge that he intends to make the subsequent volumes of his said Condensed Reports in the same manner.

And your orators further show unto your honors, that the fourth volume of the said Condensed Reports is now in press, and is threatened to be published in the present month of May, and that the same will contain several volumes of the said Wheaton's Reports. That the advertisement of the publication of the said Condensed Reports, and the publication of the said third volume thereof, have entirely suspended the sale of the said Wheaton's Reports.

But now, so it is, may it please your honors, that the said Richard Peters, combining and confederating with the said John Grigg, and to and with divers other persons, at present unknown to your orators, but whose names, when discovered, your orators pray may be herein inserted, and they made parties defendant hereto, with proper and apt words to charge them, and contriving how to injure and oppress your orators in the premises, sometimes pretends that your orators have no copy-right in the said books, some of the provisions of the said statutes or acts of Congress not having been complied with; whereas your orators charge the contrary thereof to be the truth, and that all the provisions of the said acts of Congress have been complied with, and that every thing has been done which was, by the said acts of Congress, required to be done in order to entitle your orators to the benefit of the said acts; and that if it were otherwise, your orator, Henry Wheaton, has, as the author of the said Reports, the property in the copy of the same, and the sole right to enjoy and dispose of the same. All actings, doings, and pretences, are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orators in the premises. In tender consideration whereof, and for as much as your orators are remediless in the premises at and by the direct and strict rule of the common law, and cannot have adequate relief, save in a court of equity, where matters of this and the like nature are properly cognizable and relievable; to the end, therefore, that the said Richard Peters and John Grigg, and the rest of the confederates, when discovered, may, upon their several and respective corporal oaths, full, true, direct, and perfect answer make to all and singular the matters hereinbefore stated and charged, as fully and particularly as if the same were hereinafter repeated, and they thereto distinctly interrogated; and that not only as to the best of their respective knowledge and remembrance, but also as to the best of their several and respective information, hearsay, and belief; and more especially that they may answer and set forth at what time the said third volume of Condensed Reports was published, and how many *and how many* copies thereof were printed, and especially of that part which contains the said cases of February term, one thousand eight hundred and sixteen, and

what have been done with the whole or any part of such copies, and how many of the same have been sold, and in what places, and by and to whom; and how many of the same remain unsold, and where the same now are; and how many of the unsold copies remain in the hands of the said defendants, or either of them, or under their disposition and control, and where they now are; and how many have been sent to other persons, or placed in the hands of other persons, to be sold or disposed of, and where such persons reside, and the names of such persons, respectively, and how many copies have been sold by such persons, and what they have done with the residue; and the prices which are demanded for the said copies, by themselves, correspondents, or agents, and for what prices the same are or have been sold or disposed of. And that they may set forth a particular account of the same; and, also, a full and particular account of all the profits which they, and each of them, respectively, or any person or persons, by their or either of their order, or for their or either of their use, have or hath made or received, or contracted for, by means of the making and editing, and of the publication and sale of the said third volume of Condensed Reports. And that the said defendants may state whether they have begun to print the fourth volume of the said Condensed Reports, and how many volumes of the said Wheaton's Reports will be contained therein, and how many copies they are causing to be printed of the said fourth volume of Condensed Reports, or how many copies they intend to print of the subsequent volumes of the said Condensed Reports. And that the said defendants may be respectively restrained, by the order and injunction of this honorable court, from the further threatening to print and publish, and from further printing, publishing, selling, or exposing to sale, by themselves, or their agents or servants, the said Condensed Reports, or any part thereof, containing any part of the said Wheaton's Reports, or any other book containing the same, and from parting with the possession of such copies as are in their *their* possession and unsold. And that the said defendants may be decreed to come to a fair and just account with your orators for the produce and profits of the said Condensed Reports, and to pay to your orators what shall be found coming to them on the taking of such account, after making to the said defendants all just allowances; and for such other and further relief as may to your honors seem agreeable to equity and good conscience.

May it please your honors to grant unto your orators the President of the United States of America's most gracious writ of subpœna, to be directed to the said Richard Peters and John Grigg, thereby commanding them, at a certain day, and under a certain pain therein to be inserted, personally to be and appear before your honors in this honorable court, then and there to answer the premises, and to stand to and abide by such order and decree therein as to your honors shall seem agreeable to equity and good conscience. And, also, to grant unto your orators the said President's most gracious writ of injunction, to be directed to the said Richard Peters and John Grigg, commanding them, and each of them, that they do not further threaten to print and publish, and that

they do not further print, publish, or sell, or expose to sale, by themselves, or their agents or servants, the said Condensed Reports, or any part thereof, containing any part of the said Wheaton's Reports, or any other book containing the same, and that they retain in their possession all such copies of the same as are unsold and in their possession.

And your orators will ever pray, &c.

CHAS. CHAUNCEY,
HOR. BINNEY,
Sol'rs for the complainants.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Robert Donaldson, one of the complainants in the above bill of complaint, being duly sworn, deposeth and says, that the facts set forth in the said bill, as of the knowledge of the complainants, or of this deponent, are true; and that such as are otherwise set forth, are true to the best of this deponent's information, knowledge, and belief.

ROBERT DONALDSON.

Sworn this 23d day of May, 1831, before me,

R. RIKER,
Recorder of the city of New York.

Exhibit A.

PROPOSALS

For publishing, by subscription,

THE CASES DECIDED IN THE SUPREME COURT OF THE U. S.,

From its organization to the close of January term, 1827.

The Supreme Court of the United States has been organized for thirty-eight years, and its decisions form in themselves almost an entire code of laws. Many of the difficult and important questions of constitutional construction, and of the nature and extent of the powers reserved, granted, and claimed, under the Constitution, have passed under the careful observance and judgment of the court. International questions of the highest moment; numerous points of general commercial law; principles upon which, as its deep and broad foundations, the law of evidence rests; the construction of statutes of the United States; the rules and statutes by which the titles derived under the United States, to the lands held by the enterprising and prosperous inhabitants of the vast and fertile regions of the south and west, are permanently governed —all have been subjects of investigation and final adjudication in this court.

The chancery jurisdiction of the Federal courts has brought before the Supreme Court, in submission to its scrutiny and judgment, most of its rules of equity practice, and much of general chancery law; and the right of appeal and writ of error, by which cases arising in the courts of the District of Columbia may be removed for final determination, has obliged the court to decide many points which, but for this domestic jurisdiction, might not have been brought under its consideration. Many

of the questions which are presented in cases from the District of Columbia, are of usual occurrence in the common transactions and business of life, and are of very general application and influence.

Considerations growing out of these circumstances seem to impose the necessity that the law thus general, thus established, thus supreme, should be universally known. That there should be found but few copies of the reports of the cases decided in the Supreme Court of the United States in many large districts of our country, in which there are Federal and State judicial tribunals, is asserted to be a frequent fact. In some of those districts, it is positively averred that not a single complete copy of all the reports is in the possession of any one, and thus the great and overruling law of the land is almost unknown in many populous parts of the Union. These things should not be.

It will not be denied that these circumstances are the consequences of the heavy expense which must be incurred by the purchase of the two volumes of the Reports of Mr. Dallas, the nine volumes of Mr. Cranch, and the twelve of Mr. Wheaton's Reports—together twenty-three volumes; the cost of which exceeds one hundred and thirty dollars.

It is proposed to publish all the cases adjudged in the Supreme Court of the United States, from 1790 to 1827, inclusive, in a form which will make the work authority in all judicial tribunals, and to complete the publication in not more than six volumes; the price of which shall not exceed thirty-six dollars. The opinion of the court upon all the points decided in every case will be given in the language of the court expressing the determination, and such a statement or abstract of the facts on the office record of the cause will be made, as will fully and accurately exemplify the decisions of the court. The reports this day published will continue the series.

The matter will not be abbreviated, so as to omit any thing which is important, or may be in any manner a part of the essential features of the case.

An abridgment is not contemplated; the work is intended to be of a higher order; and it will only be from want of ability in the editor, if it does not contain a complete and faithful representation of the material and useful parts of every case adjudged by the court up to the period stated. If there are any unpublished cases decided by the court, and the editor can obtain them, they will be inserted in this work.

An effort will be made to give a reference in each case to the parallel cases which have been decided by the court, and, in some instances, the reported and manuscript decisions upon the same questions, in the circuit courts of the United States, will be noted.

Each case will be preceded by a copious syllabus, itself a digest of the matter it contains; and, after the work shall be completed, all this matter will be arranged in a supplemental or general index, in which will be also included abstracts of the cases which may be contained in the volumes the editor, as the reporter of the decisions of the court, may publish hereafter, prior to the period when he shall have fully executed

the contemplated work. This may form an additional volume, if the profession and the public shall require it.

It is not considered that the work now announced, and part of the materials for which are arranged, will interfere with the interests of those gentlemen who have preceded the reporter in the station he has the honor to hold. Deeply as he is impressed with the absolute necessity of the work announced, he would exceedingly regret such an interference. Their volumes will always be standards for reference, and of the highest authority; and every member of the profession who has ability to purchase them will own them. The legal rights of the proprietors of those most able and valuable works will be carefully respected. Nothing will be inserted in the contemplated publication but matters which are of public record, and which, from their very nature, cannot be the subject of literary property. The opinions of the court, which are public property, are referred to.

Indeed, the work proposed, like the Digest of Mr. Wheaton, in which was included all the points reported as decided in the volumes of Mr. Dallas and Mr. Cranch, will, it is believed, increase the demand for the original reports, as their superior merits and accuracy will, by its means, become more generally known.

A valuable addition to the library of every lawyer will soon be made in a digest of all the decisions of the courts of the United States, which is nearly completed, by Richard S. Coxe, esquire, of the city of Washington, a gentleman of great legal learning, discrimination, and judgment, upon a plan of very superior arrangement; and this, too, as well as the work which has been commenced by the reporter, will contribute to increase the reputation of the original reports of cases decided in the Supreme Court of the United States, for which the public are so largely indebted to Mr. Dallas, Mr. Cranch, and Mr. Wheaton.

Should the proposed work have the support of the profession, to whose patronage it is now respectfully submitted, it is intended to put the first volume to press without delay, and that the whole shall be completed at an early period. Subscriptions are therefore earnestly solicited, and those who are disposed to encourage the undertaking will promote its speedy accomplishment, by giving to it promptly the sanction of their names upon the subscription list.

The terms of subscription are, for each volume, neatly bound, six dollars. Booksellers and others who subscribe for twenty copies, will be entitled to a deduction of twenty per cent., and four months credit; for fifty copies twenty-five per cent., and six months' credit. The price to non-subscribers will be six dollars in boards.

PHILADELPHIA, *June*, 1828.

NAMES OF SUBSCRIBERS.	RESIDENCE.	NO. OF COPIES.

B.

WASHINGTON, *March* 2, 1831.

Mr. JOHN GRIGG, *Philadelphia:*

DEAR SIR: Your letter of the 28th ultimo, communicating a copy of a letter from Mr. O. Halstead, of New York, under date of the 26th of February, has been received.

In that letter Mr. Halstead states that he is "threatened with a prosecution if he sells the third volume of the Condensed Reports of Cases in the Supreme Court of the United States," edited by me, "as it contains a condensation of the first volume of Wheaton's Reports." Mr. Halstead also says, "I should be pleased to sell the work, and no doubt I could dispose of a number of copies, but do not wish to involve myself in difficulty."

The prudence and caution of Mr. Halstead are proper, and I do not complain of them. It is for myself, who have undertaken the publishing of this work, with a firm determination to complete it, to encounter every "difficulty" which may attend the same.

I have heretofore stated to you in writing, and I now repeat the declaration, that I am ready to encounter those difficulties; nor do I ask any one to share them. I have said it, and I now repeat the assurance, I will indemnify and save harmless, from all costs and damages, all who publish or sell the work.

The prospectus of the Condensed Reports has been before the public for upwards of two years. In that prospectus it was distinctly and explicitly avowed, and the same is stated in the title page of the first and second volumes, published in 1830, that the work will contain "the whole series of the decisions of the Supreme Court of the United States, from its organization to the commencement of Peters's Reports in 1827." In express terms the prospectus declares, "that the Condensed Reports would contain the cases found in the volumes of Mr. Dallas, the nine volumes of Mr. Cranch, and the twelve volumes of Mr. Wheaton."

Thus, sir, all those who "threaten a prosecution," have had a full knowledge of the entire scope and purpose of this work for the period mentioned, and no application has been made to any judicial tribunal to stay its progress. Nor is this all; as soon as my work was announced, I was applied to by a gentleman of New York, a bookseller, and was required to relinquish it, on the ground that it would violate his copy-right in the Reports of Mr. Wheaton. He "threatened" me with the consequences of going on in my purpose. To this I replied, promptly, that I would proceed with the publication, and that he was at liberty to employ all legal means for the maintenance and protection of his rights, if any existed. It is known that the laws of the United States relative to copy-right afford those means; an injunction may be obtained, if a copy-right has been secured in a work, to prevent the publication of any work which will interfere with the property so secured. The injunction will be perpetuated if cause exists, and the protection

will be permanent. Any injury which the proposal of the unlawful publication may have threatened, will be remedied, and the notoriety of judicial proceedings will restore the author or proprietor of the original work to all the rights and benefits of his copy-right. It is not necessary that the rival work shall have been published to give the court jurisdiction in the case; the proposition to publish it is a sufficient foundation for the action of the courts of the United States to proceed by injunction, under the acts of Congress. Why, therefore, it is asked—nay, it is demanded, has not this—have not other measures of an equivalent character been resorted to by those who have "threatened," and do "threaten," to prosecute for the publication of my Condensed Reports? It is because those who thus "threaten," know there is no copy-right for the Reports of Mr. Wheaton, or for any one volume of the work? They know that the requisites of the acts of Congress, of 1790 or 1802, have not been complied with. They know that if they present themselves before a court to assert a copy-right, they would fail in the attempt, and that it would be judicially declared that no such copy-right exists. While they thus avoid the public and certain consequences of such a proceeding, they hope to profit by threatening the timid, and all those who are properly desirous to avoid "difficulty." Thus they gain by threats which they do not intend to carry into action, and they avoid *they* exposure of the weakness of the title they assert.

I aver that there does not exist a copy right legally secured to any one volume of Mr. Wheaton's Reports, and I challenge an application to any court to maintain such a right. In addition to other objections to the pretended claim to a copy right resting on other facts and principles, I have in my possession the certificate of the Secretary of State of the United States, that not a single volume of Mr. Wheaton's Reports has been deposited in the office of the Secretary of State for the purpose of securing a copy right. This omission is fatal; so it has been decided, as I am well assured, in New York, and I abstract a decision of Mr. Justice Washington, which is conclusive on the question.

"To entitle the author of a book to a copy right, he must not only deposite a printed copy of such book in the clerk's office, but he must also publish a copy of the record of the title within the period and for the length of time prescribed by the third section of the act of 1790, and must also deposite a copy of the book in the Secretary of State's office within six months after the publication of the book. He must perform all the requisites of the acts of 1790 and 1802, before he is entitled to the benefits of the act—the act will admit of no other construction." Ewer et al. vs. Coxe and Carey and Lea, 4 Washington's Circuit Court Reports, 487. 3 Peters' Condensed Reports, 373, notes.

A few words more on this matter. Mr. Halstead says "he is threatened with a prosecution for selling the third volume of the Condensed Reports, because the first volume of Wheaton is condensed in that volume." Can there be a more complete proof of the absence of all right in those who threaten than is exhibited by this fact? It is in New York those threats are made; no one in Philadelphia has threatened,

and yet no copy right for 1st Wheaton was ever asserted to belong to any one in New York, and had one been regularly secured, it has expired. The work was entered for copy right by the venerable Matthew Carey, esquire, of our city, on the 20th of December, 1816. The law gives a right, if its requisites are complied with, for fourteen years; that period terminated on the 20th of December, 1830, and the third Condensed Reports was not published until February, 1831.

I can add no more on this subject; the work will go on. The fourth volume, to contain at least three volumes of Mr. Wheaton's Reports, will be put to the press soon after the month of April. I invite investigation of the legality of my publication. I challenge it. I stipulate to indemnify and save harmless all who publish or sell the work, and to take defence in any prosecution which may be instituted against them. I authorize and request you to furnish a copy of this letter, either printed or written, to Mr. Halsted, and to any other person.

I request him to hand a copy of it as from me, and by my authority, to those who have threatened him, or may threaten him, with prosecution.

Nothing, sir, can stay the progress or the success of the Condensed Reports, as you know the greater part of the first edition has been disposed of, and you have proposed to me to put another to the press.

Congress, yesterday, by a joint resolution, passed under circumstances particularly gratifying to me, authorized the purchase of seventy copies of the work. It is in constant use in the Supreme Court of the United States by the bench and the bar. Every day new demands are made for it, and additional evidence received of its usefulness.

It has placed the decisions of the Supreme Court within the power of very many who could not purchase the works of Mr. Dallas, Mr. Cranch, and Mr. Wheaton, in consequence of their great cost.

All the cases decided in the Supreme Court of the United States, reported by Mr. Dallas, Mr. Cranch, and Mr. Wheaton, will be contained in this work, with notes of all the circuit court decisions, and it may be purchased for one-fifth of the original cost of those works.

It will diffuse a knowledge of the decisions of that high court and of those of the circuit courts, and will thus strengthen and secure the foundations of the federal judiciary. These will be my rewards for the labors of the publication, and their anticipation has been the chief inducement to undertake it.

I am yours, very respectfully,

RICHARD PETERS.

Separate answer of Richard Peters.

To the honorable the judges of the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit.

The separate answer of Richard Peters to the bill of complaint of Henry Wheaton and Robert Donaldson.

This respondent, saving and reserving to himself all benefit of exception to the many defects, imperfections, and errors in the said bill of

complaint, for answer thereto, or to so much thereof as he is advised it is material for him to answer unto, answering saith:

That this defendant has lately edited and caused to be printed, published, and sold, and that John Grigg has published and sold, and assisted this defendant in the publication and sale of a book or volume purporting to contain certain decisions of the Supreme Court of the United States; and this defendant believes and admits, that the same decisions of the Supreme Court of the United States had previously been published in a book entitled the first volume of Wheaton's Reports. The book, so edited by this defendant, is entitled "Condensed Reports of Cases in the Supreme Court of the United States, containing the whole series of the Decisions of the Court from its organization to the commencement of Peters's Reports, at January term, 1827, with copious Notes of Parallel Cases in the Supreme and Circuit Courts of the United States, recited by Richard Peters, Counsellor at Law, and Reporter of the Decisions of the Supreme Court of the United States, vol. iii. From February term, 1814, to February term, 1816, inclusive. Philadelphia: published by John Grigg, 9 N. Fourth street, 1831." And this defendant does not admit, but expressly denies, that the said book contains otherwise than he has stated, without any material abbreviation or alteration, all the reports of cases contained in the said first volume of Wheaton's Reports; nor does he admit, but expressly denies, that the publication and sale thereof is a direct violation of the complainants' rights. This defendant admits, that a great number of the copies of the said book have been sold by this defendant, and by the said John Grigg, as the agent of this defendant, who have many copies more of the said book printed ready for sale, and are continuing to sell the same, and have made considerable sums, and have made and do make considerable profit, by the sale of such book. He also admits, that he intends to continue the publication and sale of other decisions of the Supreme Court of the United States, in future volumes of the said Condensed Reports, the series of which has been so commenced, upon the same plan with the volume of Condensed Reports above referred to, which decisions of the Supreme Court of the United States have already been published in Wheaton's Reports. He also admits, that he has caused to be published the two several printed circulars or advertisements, of which copies are annexed to the complainants' bill, and referred to in the said bill as exhibits A and B. But this defendant expressly denies that he has, at any time, caused it to be given out that the intention to publish the said reports had been abandoned. On the contrary, he expressly declares and avers, that he has always openly announced his intention to proceed with the said publication, and he communicated such intention in writing to Robert Donaldson, one of the complainants.

This defendant further saith, that the Condensed Reports which he has published as aforesaid, contain nothing which is the exclusive property of the complainants, or which, being also contained in Wheaton's Reports, is susceptible of being made the subject of literary property.

He respectfully submits, that the matter contained in the said reports is either publicly recorded among the archives, and composes a part of the documents filed in the offices of the clerks of the Supreme and circuit courts of the United States, or has been openly and publicly pronounced and uttered by the judges of the Supreme Court of the United States, after having been by those judges respectively reduced to writing; that the matter published in the Condensed Reports, which was previously published in Wheaton's Reports, was not derived from the learning, talents, or industry of the author or publisher of Wheaton's Reports, or composed by him; that, if the justices of the said court furnished to the said Henry Wheaton, the complainant, the writings or memoranda of their decisions, as alleged in the complainants' bill, it was so done for the purpose of enabling him to communicate them to the public, and not exclusively for the private advantage or interest of the said Henry Wheaton. The defendant further saith, that much of the literary and professional labor bestowed on the said Condensed Reports, and of the matter contained in the same, is and are in no respect whatever derived from, or aided by, the reports of the said Henry Wheaton. References are given in the said Condensed Reports to parallel cases which have been decided in the same court, and to the reported and manuscript decisions upon the same questions in the circuit courts of the United States, and each case is preceded by a copious syllabus, itself a digest of the matter it contains. The arguments of counsel are omitted, the same having been regarded by this defendant as susceptible of being made the literary property of a reporter, and the publication of them not compatible with the abbreviated form designed for the Condensed Reports. The said Condensed Reports contain reports of cases materially abbreviated and altered from the reports of the same cases in Wheaton's Reports; and this defendant submits, that the publication thereof is, in no respect whatever, a violation of the rights of the complainants, if they have any exclusive or peculiar rights in or concerning the said Wheaton's Reports, which this defendant does not admit, and prays that they may be required to substantiate and prove.

And this defendant further saith, that, by an act of the Congress of the United States, passed on the thirty-first day of May, 1790, "for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned," it is enacted, that no person shall be entitled to the benefit thereof, unless he shall deposite a printed copy of the title of his map, chart, book or books, in the clerk's office of the district court, where the author or proprietor shall reside; and that such author or proprietor shall, within two months from the date thereof, cause a copy of the record to be published in one or more of the newspapers printed in the United States, for the space of four weeks; and that the author or proprietor shall, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State a copy of the same, to be preserved in his office. Notwithstanding the provisions of the said act of Congress, and of the act of Congress supplementary

thereto, of the twenty-ninth of April, 1802, the complainants do not state in their bill that, within two months from the date thereof, a copy of the record of the first volume of Wheaton's Reports was published in one or more of the newspapers printed in the United States for the space of four weeks, nor do the complainants set forth in their said bill that, within six months after the publishing thereof, the author or proprietor of the said book delivered, or caused to be delivered, to the Secretary of State a copy of the same, to be preserved in his office; and this defendant prays that the complainants may be required to give adequate proof of the compliance with the requisites of the act of Congress aforesaid, in each of the said particulars. And this defendant further states that he has made, and caused to be made, diligent inquiry and search at the office of the Secretary of State, and has received proof, under the certificate and seal of the Secretary of State, as full and satisfactory as negative proof can be; and this defendant does himself firmly believe that no such copy of the first volume of Wheaton's Reports was delivered to the Secretary of State, agreeably to the provisions aforesaid, but that the same was altogether omitted to be done. And this defendant further saith, that the complainants, in their said bill, have not alleged or set forth that, within six months after publishing the second of the said volumes of Wheaton's Reports, or of any of the rest of the said volumes, the author or proprietor delivered, or caused to be delivered, to the Secretary of State, a copy of the same, to be preserved in his office, as, by the provisions of the said act of Congress, is requisite and necessary; and this defendant further states that he has made, and caused to be made, diligent inquiry and search at the office of the Secretary of State, and has received proof under the certificate and seal of the Secretary of State, as full and satisfactory as negative proof can be, and this defendant does himself firmly believe, that no such copy of the second volume, or of any of the rest of the volumes of Wheaton's Reports, was delivered to the Secretary of State agreeably to the provisions aforesaid, but that the same was altogether omitted to be done. And this defendant respectfully insists, that the complainants are not entitled to the benefit of the said acts of Congress, or either of them, if the copies of the said several volumes of Wheaton's Reports have not been so delivered to the Secretary of State, in conformity with the provisions of the said act of one thousand seven hundred and ninety, or if the complainants are, or shall be unable, to prove the said delivery.

And this defendant respectfully submits, that until the complainants shall have made manifest to this honorable court that they have complied with the requisites of the said acts of Congress, and are in all respects entitled to the exclusive ownership and enjoyment of the copyrights claimed by them, they have no right to call upon the defendants to answer to the several matters propounded to them in the said bill of complaint, or to any of them; and while this defendant proceeds, out of great deference and respect for this honorable court, to reply to the matters specially inquired of, he does so with a protestation; and, re-

serving all his rights, he prays that this answer may be received accordingly, and that it may avail as a plea, if, in the opinion of your honors, the complainants have not exhibited such a case as would give them a right to call on the defendants for an answer to the interrogatories proposed.

And this defendant, in precise answer to the said interrogatories, farther saith, that the third volume of the said Condensed Reports was published on or about the eighth day of February, one thousand eight hundred and thirty-one. That fifteen hundred copies thereof were printed, all of which contain the cases decided at February term, one thousand eight hundred and sixteen. Fifty copies were presented to William Cranch, esquire. About eight hundred copies have been sold, but the precise number cannot be ascertained. The sales were made by John Grigg, as the agent of this defendant, with the exception of a few copies sold by Thomas Desilver and this defendant. Seventy copies were subscribed for by the Secretary of State, under the authority of Congress, at five dollars per volume. These have not been paid for. The copies unsold are in the book stores of Thomas Desilver and John Grigg, in the city of Philadelphia, and are under the control of this defendant. The sales have been made in the principal cities and towns of the United States.

The retail price has been six dollars per volume. The sales made to booksellers have been made with the usual deductions. This defendant cannot particularly state all the persons to whom sales have been made, or the exact prices at which each copy has been disposed of, or estimate the profits of the work; but all the papers and accounts relative to the same are freely offered to the inspection and examination of your honors, or of such auditor or master as may, if it be deemed necessary, be appointed by your honors to inspect and examine the same. The said third volume of Condensed Reports contains six hundred and thirty-five pages, of which four hundred and sixty-one contain the cases reported in the eighth and ninth volumes of Cranch's Reports. A portion of the matter designed for the fourth volume of Condensed Reports has been prepared for the press, but no part has been printed. The said fourth volume, together with two additional volumes, will contain all the cases of which reports are contained in the second and succeeding volumes of Wheaton's Reports, but it cannot be ascertained what will be the contents of each particular volume.

And this defendant doth not know, nor can he, as to his belief or otherwise, save as he is informed thereof by the said bill, set forth whether the circumstances in the said bill charged and stated, and not hereinbefore particularly admitted or denied, are true, or how otherwise; and prays, if necessary to the complainants' case, that they may be required to prove the same. And this defendant denies all and all manner of unlawful combination and confederacy, wherewith he is by the said bill charged. Without this, that there is any other matter, cause, or thing in the said complainants' said bill of complaint contained (material or necessary for this defendant to make answer unto, and not herein and

hereby well and sufficiently answered, confessed, traversed, and avoided or denied) is true, to the knowledge or belief of this defendant. All which matters and things, this defendant is ready and willing to aver, maintain and prove, as this honorable court shall direct; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

J. R. INGERSOLL,
For the Defendant.

Richard Peters, the above named defendant, being duly sworn, according to law, deposeth and saith, that the foregoing answer is just and true, to the best of his knowledge, judgment, recollection, and belief.

RICH. PETERS.

Sworn and subscribed, this third day of September, 1831.
R. WILLING, Junior, *Alderman.*

Separate answer of John Grigg.

To the honorable the judges of the circuit court of the United States for the eastern district of Pennsylvania, in the third circuit.

The separate answer of John Grigg to the bill of complaint of Henry Wheaton and Robert Donaldson.

This respondent, saving and reserving to himself all benefit of exception to the many defects, imperfections, and errors in the said bill of complaint, for answer thereto, or to so much thereof as he is advised it is material for him to answer unto, answering, saith, that this defendant has lately published and sold, and assisted in the publication and sale, of a book or volume purporting to contain certain decisions of the Supreme Court of the United States; and this defendant believes and admits, that the same decisions of the Supreme Court of the United States had previously been published in a book entitled the first volume of Wheaton's Reports.

The books so published and sold by this defendant is entitled "Condensed Reports of Cases in the Supreme Court of the United States, containing the whole series of the decisions of the Court, from its organization to the commencement of Peters' Reports, at January term, 1827, with copious notes of Parallel Cases in the Supreme and Circuit Courts of the United States, Edited by Richard Peters, Counsellor at Law, and Reporter of the Decisions of the Supreme Court of the United States, vol. 3. From February term, 1814, to February term, 1816, inclusive. Philadelphia: published by John Grigg, 9, N. Fourth street. 1831."

And this defendant does not admit, but expressly denies, that the said book contains, otherwise than he has stated, without any material abbreviation or alteration, all the reports of cases contained in the said first volume of Wheaton's Reports; nor does he admit, but expressly denies, that the publication and sale thereof is a direct violation of the

complainants' rights. This defendant admits, that a great number of the copies of the said book have been sold by the defendant, and by the said Richard Peters, who have many copies more of the said book printed, ready for sale, and are continuing to sell the same, and have made considerable sums, and have made, and do make, profit by the sale of such book. This defendant expressly denies, that he has at any time caused it to be given out that the intention to publish the said reports had been abandoned.

This defendant further saith, that the Condensed Reports which he has published as aforesaid, contain nothing which is the exclusive property of the complainants, or which, being also contained in Wheaton's Reports, is susceptible of being made the subject of literary property. He respectfully submits, that the matter contained in the said reports is either publicly recorded among the archives, and composes a part of the documents filed in the offices of the clerks of the Supreme and circuit courts of the United States, or has been openly and publicly pronounced and uttered by the judges of the Supreme Court of the United States, after having been by those judges respectively reduced to writing; that the matter published in the Condensed Reports, which was previously published in Wheaton's Reports, was not derived from the learning, talents, or industry, of the author or publisher of Wheaton's Reports, or composed by him; that if the justices of the said court furnished to the said Henry Wheaton, the complainant, the writings or memoranda of their decisions, as alleged in the complainants' bill, it was so done for the purpose of enabling him to communicate them to the public, and not exclusively for the private advantage or interest of the said Henry Wheaton.

The defendant further saith, that much of the literary and professional labor bestowed on the said Condensed Reports, and of the matter contained in the same, is and are in no respect whatever derived from, or aided by, the reports of the said Henry Wheaton. References are given, in the said Condensed Reports, to parallel cases which have been decided in the same court, and to the reported and manuscript decisions upon the same questions in the circuit court of the United States, and each case is preceded by a copious syllabus, itself a digest of the matter it contains. The arguments of counsel are omitted.

The said Condensed Reports contained reports of cases materially abbreviated and altered from the reports of the same cases in Wheaton's Reports; and this defendant submits, that the publication thereof is in no respect whatever a violation of the rights of the complainants, if they have any exclusive or peculiar rights in or concerning the said Wheaton's Reports, which this defendant does not admit, and prays that they may be required to substantiate and prove.

And this defendant further saith, that, by an act of the Congress of the United States, passed on the 31st day of May, 1790, "for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned," it is enacted, that no person shall be entitled to the

benefit thereof, unless he shall deposite a printed copy of the title of his map, chart, or book or books, in the clerk's office of the district court where the author or proprietor shall reside; and that such author or proprietor shall, within two months from the date thereof, cause a copy of the record to be published in one or more of the newspapers printed in the United States, for the space of four weeks; and that the author or proprietor shall, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State a copy of the same, to be preserved in his office.

Notwithstanding the provisions of the said act of Congress, and of the act of Congress supplementary thereto, of the twenty-ninth of April, 1802, the complainants do not state in their bill that, within two months from the date thereof, a copy of the record of the first volume of Wheaton's Reports was published in one or more of the newspapers printed in the United States for the space of four weeks; nor do the complainants set forth in their said bill, that within six months after the publishing thereof, the author or proprietor of the said book delivered, or caused to be delivered, to the Secretary of State, a copy of the same, to be preserved in his office; and this defendant prays, that the complainants may be required to give adequate proof of compliance with the requisites of the act of Congress aforesaid, in each of the said particulars.

And this defendant further states, that he understands, and believes, that Richard Peters has caused to be made diligent inquiry and search at the office of the Secretary of State, and has received proof, under the certificate and seal of the Secretary of State, as full and satisfactory as negative proof can be, and this defendant does himself firmly believe, that no such copy of the first volume of Wheaton's Reports was delivered to the Secretary of State, agreeably to the provisions aforesaid, but that the same was altogether omitted to be done.

And this defendant further saith, that the complainants, in their said bill, have not alleged or set forth that, within six months after publishing the second of the said volumes of Wheaton's Reports, or of any of the rest of the said volumes, the author or proprietor delivered, or caused to be delivered, to the Secretary of State a copy of the same, to be preserved in his office, as, by the provisions of the said act of Congress, is requisite and necessary.

And this defendant further states, that he understands, and believes, that Richard Peters has caused to be made diligent inquiry and search, at the office of the Secretary of State, and has received proof, under the certificate and seal of the Secretary of State, as full and satisfactory as negative proof can be, and this defendant does himself firmly believe, that no such copy of the second volume, or any of the rest of the volumes of Wheaton's Reports, was delivered to the Secretary of State, agreeably to the provisions aforesaid, but that the same was altogether omitted to be done.

And this defendant respectfully insists, that the complainants are not entitled to the benefit of the said acts of Congress, or either of them,

if the copies of the said several volumes of Wheaton's Reports have not been so delivered to the Secretary of State, in conformity with the provisions of the said act of one thousand seven hundred and ninety, or if the complainants are, or shall be, unable to prove the said delivery.

And this defendant respectfully submits, that until the complainants shall have made manifest to this honorable court that they have complied with the requisites of the said acts of Congress, and are in all respects entitled to the exclusive ownership and enjoyment of the copyrights claimed by them, they have no right to call upon the defendants to answer to the several matters propounded to them in the said bill of complaint, or to any of them; and while this defendant proceeds, out of great deference and respect for this honorable court, to reply to the matters specially inquired of, he does so with a protestation; and, reserving all his rights, he prays that this his answer may be received accordingly, and that it may avail as a plea, if, in the opinion of your honors, the complainants have not exhibited such a case as would give them a right to call on the defendants for an answer to the interrogatories proposed.

And this defendant, in precise answer to the said interrogatories, further saith, that the third volume of the said Condensed Reports was published on or about the eighth day of February, one thousand eight hundred and thirty-one.

That fifteen hundred copies thereof were printed, all of which contain the cases that were decided at February term, one thousand eight hundred and sixteen. Fifty copies were presented to William Cranch, esquire. About five hundred and fifty copies have been sold by the respondent, but the precise number cannot be ascertained. The sales were made by this defendant, as agent of Richard Peters, with the exception of a few copies sold by Thomas Desilver and Richard Peters. Seventy copies were subscribed for by the Secretary of State, under the authority of Congress, at five dollars per volume. These have not been paid for. The copies unsold are in the bookstores of Thomas Desilver and this defendant, in the city of Philadelphia, and are under the control of Richard Peters. The sales have been made in the principal cities and towns of the United States.

The retail price has been six dollars per volume. The sales made to booksellers have been made with the usual deductions. This defendant cannot particularly state all the persons to whom sales have been made, or the exact price at which each copy has been disposed of, or estimate the profits of the work; but all the papers and accounts relative to the same are freely offered to the examination and inspection of your honors, or of such auditor or master as may, if it be deemed necessary, be appointed by your honors to inspect and examine the same. The said third volume of Condensed Reports contains six hundred and thirty-five pages, of which four hundred and sixty-one contain the cases reported in the eighth and ninth volumes of Cranch's Reports.

And this defendant doth not know, nor can he, as to his belief or otherwise, save as he is informed thereof by the said bill, set forth, whe-

ther the circumstances in the said bill charged and stated, and not hereinbefore particularly admitted or denied, are true, or how otherwise; and prays, if necessary to the complainants' case, that they may be required to prove the same. And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by the said bill charged; without this, that there is any other matter, cause, or thing, in the said complainants' said bill of complaint contained, (material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed and avoided, or denied,) is true, to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

J. R. INGERSOLL, *for the def't.*

John Grigg, the abovementioned defendant, being duly sworn according to law, deposeth and saith, that the foregoing answer is just and true, to the best of his knowledge, judgment, recollection, and belief.

JOHN GRIGG.

Sworn and subscribed this sixth day of October, 1831.

A. PETIT, *Ald'man.*

The plaintiffs' reply generally.

CH. CHAUNCEY, *for complainants.*

March 15, 1832.

To the honorable the judges of the circuit court of the United States for the eastern district of Pennsylvania.

The replication of Henry Wheaton and Robert Donaldson, complainants, to the separate answers of Richard Peters and John Grigg:

These repliants, saving unto themselves all manner of exceptions to the manifold errors and insufficiencies of the said answers, for replication thereto say, that they will prove and aver their said bill to be true, certain, and sufficient in the law to be answered to, and that the said answers are uncertain, untrue, and insufficient to be replied to, without that, that any other matter or thing whatsoever in the said answers, or either of them, contained, material or effectual in the law to be replied to, confessed and avoided, traversed or denied, is true; all which matters and things these repliants are, and will be, ready to aver and prove, as this honorable court shall direct; and humbly pray, as in and by their said bill they have already prayed.

CH. CHAUNCEY,
Solicitor for complainants.

Record of M. Carey's copyright, vol. 1, *Wheaton's Rep.*

And, thereupon, the complainants gave in evidence the first volume

of Wheaton's Reports, mentioned in the pleadings, (prout volume;) also, the record of the deposite, on the eighteenth day of December, 1816, by Mathew Carey, in the office of the clerk of the district court for the district of Pennsylvania, of the title of the said volume in these words:

No. 848.

DISTRICT OF PENNSYLVANIA, *to wit:*

Be it remembered that, on the eighteenth day of December, in the forty-first year of the independence of the United States of America, A. D. 1816, Mathew Carey, of the said district, hath deposited in this office the title of a book, the right whereof he claims as proprietor, in the words following, to wit:

Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1816. By Henry Wheaton, Counsellor at Law. Volume 1.

In conformity to the act of the Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned; and, also, to the act entitled 'An act supplementary to an act entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.'" D. CALDWELL,

Clerk of the district of Pennsylvania.

And showed that a copy of said record was inserted at full length in the page of said volume immediately following the title.

Also, assignment by said Carey and others to complainant Donaldson, in these words:

Know all men by these presents, that we, Mathew Carey and Sons, of Philadelphia, booksellers, trading in company under the firm of M. Carey & Sons, for and in consideration of the sum of five hundred dollars to us in hand paid in Wheaton's Reports and Digest, by Robert Donaldson, of the city of New York, bookseller, have transferred, assigned, and set over, and do hereby transfer, assign, and set over, to the said Robert Donaldson, all our right, title, and interest, in and to the copyright of the first volume of Reports of the Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1816, by Henry Wheaton, Counsellor at Law, heretofore transferred to said Mathew Carey by said Wheaton.

In witness whereof, we have hereunto set our hands and seals, this eleventh day of September, one thousand eight hundred and twenty-one.

MATHEW CAREY, [SEAL.]
HENRY C. CAREY, [SEAL.]
ISAAC LEA. [SEAL.]

Sealed and delivered in the presence of—
WM. WARD.

Evidence of H. C. Carey.

Also the evidence of Henry C. Carey, a witness examined on behalf of complainants, whose deposition is as follows: In 1816 my father, Matthew Carey, did business alone; in 1821 I was a partner. In 1816 I did business for him as a clerk. I was, at those times, conversant with his transactions as to copy right. My father purchased the first volume of the first edition of Wheaton's Reports. I attended, in 1816, to all business connected with publication, including copy rights. It was left altogether to me. As to this first volume, a certificate was taken out, as you have seen. We were in the constant habit of advertising copy rights, but not of keeping copies of the advertisement, nor any record of them, until within ten years. From the course of the business, I don't doubt that it was advertised, but have no recollection of it. The next step towards procuring a copy right was to deposite a copy in the office at Washington; we were always accustomed to do it, but never deemed it necessary to have a certificate from Washington, because we had never seen one. We always supposed, and I believe the trade also, that a record was kept in the office of the deposite of books, and that this record would always be furnished when necessary. The earliest certificate we have from the Department of State is dated in 1820; we have but two prior to 1825; but I don't doubt that a copy was deposited in the office, although we have no evidence of it. Until Mr. Clay came into the Department of State, there was no order in the office as to sending certificates, nor attention given to it. Even since that time we have been obliged to write 4, 5, and six times, before we could get it. I imagine there is no possibility now of getting certificates of copy right prior to 1825. They cannot be obtained except from the Department of State, and I don't believe they have any record of the deposites. Our house has been more largely concerned in publishing than any other in the United States. Mr. Wheaton is the author, but Mr. Donaldson, from the publication, with the exception of the first four years of the first volume, when we had it, has been in possession and enjoyment of the copy right of all the volumes of the work called Wheaton's Reports. It is a work of great value.

Being cross-examined, says: I have no recollection at all of a deposite of a copy of this work in the office of the Secretary of State. Nine-tenths of the books we have ever deposited have been put in the post office, and addressed to the Department of State. Whether this was the course in 1816 is more than I can pretend to recollect. The volume was put in the post office, but no letter accompanied it; I mean that Mr. Donaldson has had the printing of the work for so many years, and that possession has been undisturbed by any one until recently. I know that we transferred the work to Mr. Donaldson, and that he has been the exclusive publisher until recently. For a number of years past all copies have gone by the post office, but can't recollect whether it extended so far back as this; don't know how those went that did not go by the post office. I cannot positively say with regard to all the

publications made by us; they were sent to the Department of State. I don't mean to assert that there is no record kept in the Department of State of the copies deposited, but I believe so. I have no knowledge whether there was or was not a record kept, except that I was told of some difficulty in getting one, and therefore supposed that there was none; have never been to the Department to inquire whether there was one or not; have had no occasion to know or make the inquiry for myself; don't know who told me of the difficulty mentioned. The number of the first volume printed was 1,000, and we sold about 200 copies that remained to Mr. Donaldson; we had sold all the rest.

Being again examined in chief, says: There have always been sufficient of the succeeding volumes to supply the public demand, as I have always understood. Our intention was always to send all works to the Department of State, whose titles were duly recorded in the clerk's office; but I won't pretend to say it was always done. Our custom was to send them, and I don't doubt that this was sent. I recollect Mr. Wheaton was here a day or two before the first volume was published, and there were some copies sent to Washington by him. Whether the copy for the Department was sent by him or not I cannot say, but it is the most probable way in which it was sent.

2d ed., 1st vol.

Also the second edition of the said first volume of Wheaton's Reports, (prout volume.)

Record of copy right of do.

Also the record of the deposite on the 14th day of May, A. D. 1830, by complainant Wheaton, of the title of the first volume of Wheaton's Reports, in the office of the clerk of the district court of the United States for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 14th day of May, A. D. 1830, in the 54th year of the independence of the United States of America, Henry Wheaton, *hath* of the said district, hath deposited in this office the title of a book, the right whereof he claims as author, in the words following, to wit:

Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1816. By Henry Wheaton, Counsellor at Law. Vol. 1.

In conformity to the act of Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned;" and, also, to an act entitled "An act supplementary to an act entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.'"

FRED. J. BETTS,
Clerk of the southern district of New York.

Record of copyright of 2d ed. 1st vol.

Also the record of another such deposite thereof, on the 14th day of June, A. D. 1830, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered, that on the 14th day of June, A. D. 1830, in the 54th year of the independence of the United States of America, Henry Wheaton, of the said district, has deposited in this office the title of a book, the right whereof he claims as author in the words following, to wit:

Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1816. By Henry Wheaton, Counsellor at Law. Vol. 1.

In conformity to the act of Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned;" and, also, to an act entitled "An act supplementary to an act entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.'"

FRED. J. BETTS,
Clerk of the Southern District of New York.

Certificate from the Department of State, No. 1,044.

Also a certificate of the 8th day of October, A. D. 1830, from the Department of State, in these words:

No. 1,044.

To all to whom these presents shall come, greeting:

I certify that Henry Wheaton has this eighth day of October, in the year of our Lord one thousand eight hundred and thirty, and of independence the fifty-fifth, deposited in the office of the Department of State a certain book consisting of five hundred and forty-six pages, entitled Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1816. By Henry Wheaton, Counsellor at Law. Vol. 1, second edition; revised and improved by the reporter.

The copy-right whereof is claimed by Henry Wheaton as proprietor, under the provisions of "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned," passed on the 31st day of May, A. D. 1790; and of "An act supplementary to an act entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints,'" passed on the 29th of April, A. D. 1802.

Given under my hand, as the Secretary of the Department of State of the United States, with the seal of the said Department affixed, at the city of Washington, the day and year first above written.

[L. S.] M. VAN BUREN.

Acts of Congress concerning the report decisions Sup. Court U. S.

Also certain statutes of the Congress of the United States of America concerning the reports of the decisions of the Supreme Court of the United States, which statutes are as follows:

An act to provide for Reports of the Decisions of the Supreme Court.

Act of March 3, 1817.

§ 1. *Be it enacted, &c.*, That the reporter who shall, from time to time, be appointed by the Supreme Court of the United States to report its decisions, shall be entitled to receive from the Treasury of the United States, as an annual compensation for his services, the sum of one thousand dollars: *Provided, nevertheless*, The said compensation shall not be paid unless the said reporter shall print and publish, or cause to be printed and published, the decisions of said court, made during the time he shall act as such reporter, within six months after such decisions shall be made, and shall deliver eighty copies of the decisions, so printed and published, to the Secretary of State, without any expense to the United States; and which copies shall be distributed as follows, to wit: To the President of the United States, the Judges of the Supreme Court, and the Judges of the District Courts, the Attorney General of the United States, the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Comptroller of the Treasury, the Postmaster General, the Commissioner of the Revenue, the Commissioner of the General Land Office, the Judges of the several Territories of the United States, the Secretary of the Senate, the Clerk of the House of Representatives, the Auditor of the Treasury, the Register of the Treasury, the Treasurer of the United States, the Paymaster General, the Accountants of the War and Navy Departments, and to the Commissioners of the Navy, one copy each; and the residue of said copies shall be deposited in, and become part of, the Library of Congress.

§ 2. That, in case of the death, resignation, or dismission from office of either of the officers before mentioned, the said copies of the decisions delivered to them as aforesaid, shall belong to, and be delivered up to, their respective successors in the said offices.

§ 3. That this act shall be, and continue in force for three years, and no longer.

Approved, March 3, 1817.

An act to continue in force the act entitled "An act to provide for Reports of the Decisions of the Supreme Court," approved the third of March, one thousand eight hundred and seventeen.

Act of May 15, 1820.

§ 1. *Be it enacted, &c.*, That the act entitled "An act to provide for

reports of decisions of the Supreme Court," approved the third day of March, one thousand eight hundred and seventeen, be, and the same is hereby, continued in force for three years, and no longer.

Approved, May 15, 1820.

An act to continue in force the act entitled "An act to provide for Reports of the Decisions of the Supreme Court," passed the third day of March, one thousand eight hundred and seventeen.

Act of March 3, 1823.

§ 1. *Be it enacted, &c.*, That the reporter who shall, from time to time, be appointed by the Supreme Court of the United States to report its decisions, shall be entitled to receive, from the Treasury of the United States, as an annual compensation for his services, the sum of one thousand dollars: *Provided, nevertheless*, The said compensation shall not be paid unless the said reporter shall print and publish, or cause to be printed and published, the decisions of said court, made during the time he shall act as such reporter, within nine months after such decisions shall be made; and shall deliver eighty copies of the decisions, so printed and published, to the Secretary of State, without any expense to the United States; which copies shall be distributed as follows, to wit: To the President of the United States, the Judges of the Supreme Court, the Judges of the District Courts, the Attorney General of the United States, the Secretaries of State, Treasury, War, and Navy, the Comptrollers of the Treasury, and the Judges of the several Territories of the United States, one copy each; five copies for the use of each House of Congress, and the residue of the copies shall be deposited in the Library of Congress.

§ 2. That, in case of the death, resignation, or dismission from office of either of the officers before mentioned, the said copies of the decisions, delivered to them as aforesaid, shall belong to, and be delivered over to, their successors in said offices.

§ 3. That this act shall be, and continue in force for three years, and no longer.

Approved, March 3, 1823.

An act to provide for Reports of the Decisions of the Supreme Court.

Act of 22d February, 1827.

§ 1. *Be it enacted, &c.*, That a reporter shall, from time to time, be appointed by the Supreme Court of the United States to report its decisions, who shall be entitled to receive from the Treasury of the United States, as an annual compensation for his services, the sum of one thousand dollars: *Provided, nevertheless*, That the said compensation shall not be paid, unless said reporter shall print and publish, or cause to be printed and published, the decisions of the said court, made during the time he shall act as such reporter, within six months after such decisions shall be made; and shall deliver eighty copies of the decisions, so printed and published, to the Secretary of State, without any expense

to the United States; which copies shall be distributed as follows, to wit: To the President of the United States, the Judges of the Supreme Court, the Judges of the District Courts, the Attorney General of the United States, the Secretaries of State, Treasury, War, and Navy, the Comptrollers of the Treasury, and the Judges of the several Territories of the United States, one copy each; five copies for the use of each House of Congress, and the residue of the copies shall be deposited in the Library of Congress. *And provided, also*, That the said decisions shall be sold to the public at large at a price not exceeding five dollars a volume.

§ 2. That, in case of the death, resignation, or dismission from office, of either of the officers before mentioned, the said copies of the decisions delivered to them as aforesaid, shall belong, and be delivered over, to their successors in said offices.

§ 3. This act shall be and continue in force for three years, and no longer.

Approved, February 22, 1827.

2d vol. Wheaton's Reports.

Also the second volume of said Wheaton's Reports, (prout volume.)

Record of deposite of title of do.

Also the record of the deposite, on the 1st day of September, A. D. 1817, of the title thereof in the clerk's office of the district court of the United States for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the first day of September, in the forty-second year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as in the words and figures following, to wit:

Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1817. By Henry Wheaton, Counsellor at Law. Vol. 2d.

In conformity to the act of Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned;" and also an act, entitled "An act supplementary to an act entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.' "

And showed that a copy of said record was inserted at full length in the page of said volume immediately following the title.

Agreement, Wheaton with Van Winkle & Wiley, 2d vol.

Also an agreement of the 28th day of April, A. D. 1817, between complainant, Wheaton, and Van Winkle and Wiley, of New York, in these words:

Memorandum of an agreement between C. S. Van Winkle and Charles Wiley, of the city, county, and State of New York, booksellers, of the one part, and Henry Wheaton, of the same city, county, and State, counsellor at law, of the other part. It is hereby agreed that the said Wheaton doth sell to the said Van Winkle and Wiley the right and privilege of publishing an edition of one thousand copies of the said Wheaton's second volume of Reports of Decisions in the Supreme Court of the United States, being decisions of February term, one thousand eight hundred and seventeen. And the said Wheaton doth hereby agree that he will not publish, or cause or suffer to be published, another edition of the said volume, until the whole of the said first edition shall be exhausted and sold by the said Van Winkle and Wiley; provided the said work shall be always publicly for sale at the price which shall be first set on the same. with the usual discount at wholesale. And the said Wheaton further agrees to give to the said Van Winkle and Wiley the refusal of the right to publish another edition of the said work at the same price, and on the same terms, which may be offered by any other person or persons. And the said Van Winkle and Wiley agree to pay said Wheaton, for the right and privilege of publishing said first edition, the sum of five hundred dollars, on demand, in law books, at the wholesale price, according to a catalogue to be furnished by said Wheaton. And the said Van Winkle and Wiley further agree to print and publish the said work on or before the first day of September next, and to deliver eighty copies of the same at the office of the Secretary of State at Washington, on or before the same day, for the use of the United States, and without any expense to the said Wheaton or to the United States.

C. S. VAN WINKLE,
CHARLES WILEY,
HENRY WHEATON.

NEW YORK, 28*th April*, 1817.

And an agreement of the day next following, between the said Van Winkle and Wiley and complainant Donaldson, in these words:

Agreement, Van Winkle & Wiley with Donaldson, vol. 2.

Be it known, that we, Cornelius S. Van Winkle and Charles Wiley, of the city of New York, printers and booksellers, for and in consideration of the sum of five hundred dollars in hand well and truly paid to us by Robert Donaldson, of the said city, paper manufacturer, do hereby and by these presents make over and sell unto the said Robert Donaldson, all our right, title, and interest in and to a certain work called "Wheaton's second volume of Reports of Decisions of the Supreme Court of the United States," as contained in the annexed memorandum. And it is hereby fully and entirely understood by the said parties, that this agreement shall be considered valid from the day of the signing of these presents, the same as if the provisions were inserted word for word. New York, April twenty-ninth, one thousand eight hundred and seventeen.

C. S. VAN WINKLE,
CHARLES WILEY.

Witness: HENRY LORING.

Also an agreement of the 23d day of June, A. D. 1827, between complainant Wheaton, and complainant Donaldson, in these words:

Agreement, Wheaton with Donaldson.

Memorandum of an agreement between Robert Donaldson, of the city, county, and State of New York, and Henry Wheaton, of the same city, county, and State. It is hereby agreed that the said Wheaton doth sell to the said Donaldson the right and privilege of publishing a second edition of two hundred and fifty copies of said Wheaton's second volume of Reports of the Decisions of the Supreme Court of the United States, being the decisions of February term, one thousand eight hundred and seventeen. And the said Wheaton agrees that he will not publish, or cause to be published, another edition of the said volume, until the whole of the said second edition is exhausted and sold by the said Donaldson; provided the said work shall be always publicly for sale at the price which shall be first set on the same, with the usual discount at wholesale. And the said Wheaton further agrees to give to the said Donaldson the refusal of the right to publish another edition of the said second volume at the same price, and on the same terms, which may be offered by any other person or persons. And the said Donaldson agrees to pay to the said Wheaton, for the right and privilege of publishing said second edition of said second volume, the sum of two hundred and fifty dollars, the receipt whereof is hereby acknowledged by the said Wheaton.

ROBERT DONALDSON,
HENRY WHEATON.

New York, June 23, 1827.

3d v. Wheaton's Reports.

Also the third volume of said Wheaton's Reports, (prout volume.)

Record of deposite of title of do.

Also the record of the deposite, on the 19th day of August, A. D. 1818, of the title thereof in the clerk's office of the district court of the United States for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 19th day of August, in the forty-third year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author and proprietor, in the words and figures following, to wit:

"Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1818. By Henry Wheaton, Counsellor at Law. Volume III."

In conformity to the act of the Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned;" and, also, to an act entitled

an "Act supplementary to an act entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints."

JAMES DILL,
Clerk of the Southern District of New York.

And showed that a copy of said record was inserted, at full length, in the page of said volume immediately following the title.

Agreement, Donaldson with Wheaton, 3d vol.

Also an agreement of the 22d day of April, 1818, between complainants Donaldson and Wheaton, in these words:

Memorandum of an agreement between Robert Donaldson, of the city, county, and State of New York, and Henry Wheaton, of the same city, county, and State. It is hereby agreed that the said Wheaton doth sell to the said Donaldson the right and privilege of publishing an edition of one thousand copies of said Wheaton's third volume of Reports of Decisions in the Supreme Court of the United States, being the decisions of February term, one thousand eight hundred and eighteen, and said Wheaton agrees that he will not publish, or cause or suffer to be published, another edition of the said third volume, until the whole of the said first edition thereof shall be exhausted and sold by the said Donaldson; provided the said work shall be always publicly for sale at the price which shall be first set on the same, with the usual discount at wholesale. And the said Wheaton further agrees to give to said Donaldson the refusal of the right to publish another edition of the said volume at the same price, and on the same terms, which may be offered by any other person or persons. And the said Donaldson agrees to pay said Wheaton, for the right and privilege of publishing the said first edition, the sum of five hundred dollars on the first day of August now next. And the said Donaldson further agrees to print and publish the said work on or before the first day of September next, and to deliver eighty copies of the same at the office of the Secretary of State at Washington, for the use of the United States, on or before the said first day of September, and without any expense to the said Wheaton or to the United States.

ROB'T DONALDSON,
H. WHEATON.

New York, 22d April, 1818.

4th vol.

Also the fourth volume of said Wheaton's Reports, (prout volume.)

Record of deposit of title of do.

Also the record of the deposite, on the 26th day of August, A. D. 1819, of the title thereof in the clerk's office of the district court of United States for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 26th day of August, in the 44th year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author and proprietor, in the words and figures following, to wit:

Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1819. By Henry Wheaton, Counsellor at Law. Volume IV.

In conformity to the act of the Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time mentioned;" and, also, to an act entitled an "act supplementary to an act entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the time therein mentioned, and extending the benefits thereof to the arts of designing, engraving and etching historical and other prints."

GILBERT LIVINGSTON THOMPSON.

And showed that a copy of said record was inserted, at full length, in the page of said volume immediately following the title.

Agreement, Wheaton with Donaldson, 4th vol.

Also an agreement of the 22d day of April, 1819, between complainants Wheaton and Donaldson, in these words:

Memorandum of an agreement between Robert Donaldson, of the city, county, and State of New York, and Henry Wheaton, of the same city, county, and State. It is hereby agreed that the said Wheaton doth sell to the said Donaldson the right and privilege of publishing an edition of eleven hundred copies of said Wheaton's fourth volume of Reports of Decisions in the Supreme Court of the United States, being the decisions of February term, one thousand eight hundred and nineteen. And the said Wheaton agrees that he will not publish, or cause or suffer to be published, another edition of the said fourth volume, until the whole of the said first edition thereof shall be exhausted and sold by the said Donaldson; provided the said work shall be always publicly for sale at the price which shall be first set on the same, with the usual discount at wholesale. And the said Wheaton further agrees to give to said Donaldson the refusal of the right to publish another edition of the said volume at the same price, and on the same terms, which may be offered by any other person or persons. And the said Donaldson agrees to pay said Wheaton, for the right and privilege of publishing said first edition, the sum of eight hundred dollars, payable five hundred dollars on the first day of May now next, one hundred and fifty dollars on the first day of August, and one hundred and fifty dollars on the first day of November following. And the said Donaldson further agrees to print

and publish the said work on or before the first day of September now next, and to deliver eighty copies of the same at the office of the Secretary of State at Washington, for the use of the United States, on or before the tenth day of said month of said September, without any expense to the said Wheaton or the United States.

HENRY WHEATON,
ROB'T. DONALDSON.

New York, April 22, 1819.

It is agreed that said Donaldson may publish 1250 copies.

5th volume.

Also the fifth volume of said Wheaton's Reports, (prout volume.)

Record of deposite of title of do.

Also the record of the deposite, on the 11th day of July, A. D. 1820, of the title thereof in the clerk's office of the district court of the United States for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 11th day of July, in the 45th year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author and proprietor, in the words and figures following, to wit:

Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1820. By Henry Wheaton, Counsellor at Law. Volume 5.

In conformity to the act of Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the time therein mentioned;" and, also, to an act entitled an "act supplementary to an act entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints."

G. L. THOMPSON.

And showed that a copy of said record was inserted, at full length, in the page of said volume immediately following the title.

Agreement, Wheaton with Donaldson, 5th vol.

Also an agreement of the 11th day of July, A. D. 1820, between complainants, Wheaton and Donaldson, in these words:

Memorandum of an agreement between Robert Donaldson, of the city, county, and State of New York, and Henry Wheaton, of the same city, county, and State. It is hereby agreed that the said Wheaton doth sell to the said Donaldson the right and privilege of publishing an edition of twelve hundred copies of said Wheaton's fifth volume of Re-

ports of Decisions in the Supreme Court of the United States, being the decisions of February term, one thousand eight hundred and twenty. And the said Wheaton agrees that he will not publish, or cause or suffer to be published, another edition of the said fifth volume, until the whole of the said first edition thereof shall be exhausted and sold by the said Donaldson; provided the said work shall be always publicly for sale a the price which shall be first set on the same, with the usual discount at wholesale. And the said Wheaton further agrees to give to said Donaldson the refusal of the right to publish another edition of the said volume, at the same price, and on the same terms, which may be offered by any other person or persons. And the said Donaldson agrees to pay said Wheaton for the right and privilege of publishing said first edition the sum of six hundred and fifty dollars, payable on demand. And the said Donaldson further agrees to print and publish the said work on or before the fifteenth day of July instant, and to deliver eighty copies of the same at the office of the Secretary of State at Washington, for the use of the United States, on or before the fifteenth day of August now next, without any expense to the said Wheaton or to the United States

H. WHEATON,

New York, July 11, 1820. ROBT. DONALDSON.

The said Donaldson to be at liberty to print 1250 copies.

Sixth volume.

Also the sixth volume of said Wheaton's Reports, (prout volume.)

Record of deposite of title.

Also the record of the deposite, on the 16th day of July, A. D. 1821, of the title thereof in the clerk's office of the district court of the United States for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 16th day of July, in the 46th year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author, in the words and figures following, to wit:

"Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1821. By Henry Wheaton, Counsellor at Law. Volume VI."

In conformity to the act of the Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned;" and, also, to an act entitled "An act supplementary to an act entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving and etching historical and other prints."

G. L. THOMPSON,

Clerk of the southern district of New York.

And showed that a copy of said record was inserted, at full length, in the page of said volume immediately following the title.

Seventh volume.

Also the 7th volume of said Wheaton's Reports, (prout volume.)

Record of deposite of title.

Also the record of the deposite, on the 20th day of July, A. D. 1822, of the title thereof, in the clerk's office of the district court of the United States for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 20th day of July, in the 47th year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as , in the words following, to wit:

Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1822. By Henry Wheaton, Counsellor at Law. Volume VII.

In conformity to the act of the Congress, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned;" and, also, to an act entitled "An act supplementary to an act entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints."

JAMES DILL,
Clerk of the southern district of New York.

And showed that a copy of said record was inserted, at full length, in the page immediately following the title.

Sixth and 7th vols. Agreement, Wheaton with Donaldson.

Also an agreement of the 12th day of August, A. D. 1822, between complainants Wheaton and Donaldson, in these words:

Memorandum of an agreement between Robert Donaldson, of the city, county, and State of New York, and Henry Wheaton, of the same city, county, and State. It is hereby agreed that the said Wheaton doth sell to the said Donelson the right and privilege of publishing a first edition of twelve hundred and fifty copies of each of said Wheaton's sixth and seventh volumes of Reports of the Decisions in the Supreme Court of the United States, being the decisions of February term, one thousand eight hundred and twenty-one, and of February, one thousand eight hundred and twenty-two, both of which are already published by the said Donaldson. And the said Wheaton agrees that he will not publish, or cause or suffer to be published, another edition of the said sixth and seventh volumes, until the whole of said first editions of said volumes shall be exhausted and sold by the said

Donaldson; provided, the said work shall be always publicly for sale at the price which shall be first set on the same, with the usual discount at wholesale. And the said Wheaton further agrees to give to said Donaldson the refusal of the right to publish another edition of the said sixth and seventh volumes, at the same price, and on the same terms, which may be offered by any other person or persons. And the said Donaldson agrees to pay said Wheaton, for the right and privilege of publishing said first edition of said sixth and seventh volumes, the sum of fourteen hundred dollars, the receipt whereof the said Wheaton hereby acknowledges. And the said Donaldson, having already delivered eighty copies of the said sixth volume at the office of the Secretary of State, at Washington, for the use of the United States, hereby agrees to deliver eighty copies of the said seventh volume at the said office for the use of the said United States, on or before the fifteenth day of September now next, without any expense to the said United States or to the said Wheaton.

H. WHEATON,
ROBERT DONALDSON.

NEW YORK, *August 12th*, 1822.

Eighth volume.

Also the eighth volume of said Wheaton's Reports, (prout volume.)

Record of dep. of title.

Also the record of the deposite, on the 22d of October, A. D. 1823, of the title thereof in the clerk's office of the district court of the United States for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 22d day of October, in the 48th year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author, in the words following, to wit:

"Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1823. By Henry Wheaton, Counsellor at Law. Volume VIII."

In conformity to the act of the Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned;" and, also, to an act entitled "An act supplementary to an act entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints."

JAMES DILL,
Clerk of the southern district of New York.

And showed that a copy of said record was inserted, at full length, in the page of said volume immediately following the title.

Eighth vol. Agreement, Wheaton with Donaldson.

Also an agreement of the 13th day of December, A. D. 1823, between complainants Wheaton and Donaldson, in these words:

Memorandum of an agreement between Robert Donaldson, of the city, county, and State of New York, and Henry Wheaton, of the same city, county, and State. It is hereby agreed that the said Wheaton doth sell to the said Donaldson the right and privilege of publishing a first edition of twelve hundred and fifty copies of said Wheaton's eighth volume of Reports of the Decisions of the Supreme Court of the United States, being the decisions of February term, one thousand eight hundred and twenty-three, which has already been published by the said Donaldson. And the said Wheaton agrees that he will not publish, or cause or suffer to be published, another edition of the said volume until the whole of the said first edition shall be exhausted and sold by the said Donaldson; provided the said work shall be always publicly for sale at the price which shall be first set on the same, with the usual discount at wholesale. And the said Wheaton further agrees to give to the said Donaldson the refusal of the right to publish another edition of the said eighth volume at the same price, and on the same terms, as may be offered by any other person or persons. And the said Donaldson agrees to pay the said Wheaton, for the right and privilege of publishing said first edition of said eighth volume, the sum of seven hundred dollars, the receipt whereof is hereby acknowledged by the said Wheaton. And the said Donaldson hereby agrees to deliver eighty copies of the said eighth volume at the office of the Secretary of State, at Washington, for the use of the Government of the United States, without any expense to the said Wheaton or the said Government.

ROBERT DONALDSON,
HENRY WHEATON.

NEW YORK, *Dec.* 13, 1823.

Ninth volume.

Also the ninth volume of said Wheaton's Reports, (prout volume.)

Record of deposite of title.

Also the record of the deposite, on the 21st day of September, A. D. 1824, of the title thereof, in the clerk's office of the district court of the United States for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 21st day of September, in the 49th year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author, in the words following, to wit:

"Reports of Cases Argued and Adjudged in the Supreme Court of

the United States, February term, 1824. By Henry Wheaton, Counsellor at Law. Volume IX."

In conformity to the act of the Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned;" and, also, to an act entitled "An act supplementary to an act entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints."

JAMES DILL.
Clerk of the southern district of New York.

And showed that a copy of said record was inserted at full length in the page immediately following the title.

Ninth volume. Agreement, Wheaton with Donaldson.

Also an agreement of the 16th day of December, A. D. 1824, between complainants Wheaton and Donaldson, in these words:

Memorandum of an agreement between Robert Donaldson, of the city, county, and State of New York, and Henry Wheaton, of the same city, county, and State. It is hereby agreed that the said Wheaton doth sell to the said Donaldson the right and privilege of publishing a first edition of twelve hundred and fifty copies of said Wheaton's ninth volume of Reports of the Decisions of the Supreme Court of the United States, being the decisions of February term, one thousand eight hundred and twenty-four, which has already been published by the said Donaldson. And the said Wheaton agrees that he will not publish, or cause or suffer to be published, another edition of the said volume, until the whole of the said first edition is exhausted and sold by the said Donaldson; provided the said works shall be always publicly for sale at the price which shall be first set on the same, with the usual discount at wholesale. And the said Wheaton further agrees to give to the said Donaldson the refusal of the right to publish another edition of the said ninth volume at the same price, and on the same terms, which may be offered by any other person or persons. And the said Donaldson agrees to pay the said Wheaton for the right and privilege of publishing said first edition of said ninth volume, the sum of eight hundred dollars, the receipt whereof is hereby acknowledged by the said Wheaton. And the said Donaldson hereby agrees to deliver eighty copies of the said ninth volume at the office of the Secretary of State, at Washington, for the use of the Government of the United States, without any expense to the said Wheaton or to the United States.

HENRY WHEATON,
ROBERT DONALDSON.

NEW YORK, *Dec.* 16, 1824.

10th Volume.

Also the tenth volume of said Wheaton's Reports, (prout volume.)

Record of deposite of title.

Also the record of the deposite, on the 21st day of June, A. D. 1825, of the title thereof, in the clerk's office of the district court of the United States for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 21st day *day* of June, A. D. 1825, and in the 49th year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author, in the words following, to wit:

Reports of Cases argued and adjudged in the Supreme Court of the United States, February term, 1825. By Henry Wheaton, Counsellor at Law. Volume X.

In conformity to the act of Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned;" and, also, to an act, entitled "An act supplementary to an act, entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.'"

JAMES DILL,
Clerk of the southern district of New York.

And showed that a copy of said record was inserted, at full length, in the page immediately following the title.

10th Volume. Agreement, Wheaton with Donaldson.

Also an agreement of the 29th day of June, A. D. 1825, between complainants Wheaton and Donaldson, in these words:

Memorandum of an agreement between Robert Donaldson, of the city, county, and State of New York, and Henry Wheaton, of the same city, county, and State. It is hereby agreed, that the said Wheaton doth sell to the said Donaldson the right and privilege of publishing a first edition of twelve hundred and fifty copies of said Wheaton's tenth volume of Reports of the Decisions of the Supreme Court of the United States, being the decisions of February term, one thousand eight hundred and twenty-five, which has already been published by the said Donaldson. And the said Wheaton agrees, that he will not publish, or cause or suffer to be published, another edition of the said volume until the whole of the said first edition is exhausted and sold by the said Donaldson; provided the said work shall be always publicly for sale at the price which shall be first set on the same, with the usual discount at wholesale. And the said Wheaton further agrees to give to the said Donaldson the refusal of the right to publish another edition of the said tenth volume at the same price, and on the same

terms, which may be offered by any other person or persons. And the said Donaldson agrees to pay the said Wheaton, for the right and privilege of publishing said first edition of said tenth volume, the sum of seven hundred dollars, the receipt whereof is hereby acknowledged by the said Wheaton. And the said Donaldson hereby agrees to deliver eighty copies of the said tenth volume at the office of the Secretary of State at Washington, for the use of the Government of the United States, without any expense to the said Wheaton or to the United States.

ROBERT DONALDSON,
HENRY WHEATON.

NEW YORK, *June* 29, 1825.

11th Volume.

Also the 11th volume of said Wheaton's Reports, (prout volume.)

Record of deposite of title.

Also the record of the deposite, on the 20th day of July, A. D. 1826, of the title thereof in the clerk's office of the district court of the United States, for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 20th day of July, A. D. 1826, in the 51st year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author, in the words following, to wit:

"Reports of Cases argued and adjudged in the Supreme Court of the United States, February term, 1826. By Henry Wheaton, Counsellor at Law. Volume XI."

In conformity to the act of Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned;" and, also, to an act entitled an "Act supplementary to an act entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned, and extending the benefit thereof to the arts of designing, engraving, and etching historical and other prints.'"

JAMES DILL,
Clerk of the southern district of New York.

And showed that a copy of said record was inserted, at full length, in the page immediately following the title.

11th Volume. Agreement, Wheaton with Donaldson.

Also an agreement of the 9th day of December, 1826, between complainants Wheaton and Donaldson, in these words:

Memorandum of an agreement between Robert Donaldson, of the

city, county, and State of New York, and Henry Wheaton, of the same city, county, and State. It is hereby agreed, that the said Wheaton doth sell to the said Donaldson the right and privilege of publishing a first edition of twelve hundred and fifty copies of said Wheaton's eleventh volume of Reports of the Decisions of the Supreme Court of the United States, being the decisions of February term, one thousand eight hundred and twenty-six, which edition has already been published by the said Donaldson.

And the said Wheaton agrees, that he will not publish, or cause or suffer to be published, another edition of the said volume, until the whole of the said first edition is exhausted and sold by the said Donaldson; provided the said work shall be always publicly for sale at the price which shall be first set on the same, with the usual discount at wholesale. And the said Wheaton further agrees to give to the said Donaldson the refusal of the right to publish another edition of the said eleventh volume at the same price, and on the same terms, which may be offered by any other person or persons. And the said Donaldson agrees to pay the said Wheaton, for the right and privilege of publishing said first edition of said eleventh volume, the sum of five hundred dollars, the receipt whereof is hereby acknowledged by the said Wheaton. And the said Donaldson hereby agrees to deliver eighty copies of the said eleventh volume at the office of the Secretary of State at Washington, for the use of the Government of the United States, without any expense to the said Wheaton or to the United States.

HENRY WHEATON,
ROBERT DONALDSON.

NEW YORK, *December* 9, 1826.

12th Volume.

Also the twelfth volume of said Wheaton's Reports, (prout volume.)

Record of deposite of title.

Also the record of the deposite, on the 25th day of June, A. D. 1827, of the title thereof in the clerk's office of the district court of the United States, for the southern district of New York, in these words:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered that, on the 25th day of June, A. D. 1827, and in the 51st year of the independence of the United States of America, Henry Wheaton, of the said district, hath deposited in this office the title of a book, the right whereof he claims as author, in the words following, to wit:

"Reports of Cases argued and adjudged in the Supreme Court of the United States, January term, 1827. By Henry Wheaton, Counsellor at Law. Volume 12."

In conformity to the act of Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies

during the time therein mentioned;" and, also, to an act entitled "An act supplementary to an act entitled 'An act for the encouragement of learning, by securing the maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.'"

FRED. J. BETTS,
Clerk of the southern district of New York.

And showed that a copy of said record was inserted, at full length, in the page immediately following the title.

12*th Volume. Agreement, Wheaton with Donaldson.*

Also an agreement on the 29th day of May, A. D. 1827, between complainants Wheaton and Donaldson, in these words:

Memorandum of an agreement between Robert Donaldson, of the city, county, and State of New York, and Henry Wheaton, of the same city, county, and State. It is hereby agreed, that the said Wheaton doth sell to the said Donaldson the right and privilege of publishing a first edition of fifteen hundred copies of said Wheaton's twelfth volume of Reports of the Decisions of the Supreme Court of the United States, being the decisions of January term, one thousand eight hundred and twenty-seven. And the said Wheaton agrees that he will not publish, or cause or suffer to be published, another edition of said volume, until the whole of the said first edition is exhausted and sold by the said Donaldson; provided the said work shall be always publicly for sale at the price which shall be first set on the same, with the usual discount at wholesale; and provided that the same shall be sold to the public at large at a price not exceeding five dollars the volume. And the said Wheaton further agrees to give to the said Donaldson the refusal of the right to publish another edition of the said twelfth volume at the same price, and on the same terms, which may be offered by any other person or persons. And the said Donaldson agrees to pay to said Wheaton, for the right and privilege of publishing said first edition of said twelfth volume, the sum of seven hundred dollars, the receipt whereof is hereby acknowledged by the said Wheaton. And the said Donaldson hereby agrees to deliver eighty copies of the said twelfth volume at the office of the Secretary of State at Washington, for the use of the Government of the United States, without any expense to the said Wheaton or to the United States.

ROBERT DONALDSON,
HENRY WHEATON.

NEW YORK, *May* 29, 1827.

As to volumes two to twelve, inclusive, of said Wheaton's Reports, to prove the delivery, within six months of their respective publication, of a copy of said volumes, respectively, to the Secretary of State, to be preserved in his office, complainants gave in evidence the testimony of Daniel Brent, whose deposition is as follows:

Endorsed—"Opened 24th December, 1832, by Jos. Hopkinson, in open court."

Deposition of Daniel Brent.

DISTRICT OF COLUMBIA, *ss:*

HENRY WHEATON AND ROBERT DONALDSON, citizens of the State of New York, complainants,
vs.
RICHARD PETERS AND JOHN GRIGG, citizens of the State of Pennsylvania, defendants.

In a cause depending in the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting as a court of chancery, wherein Henry Wheaton and Robert Donaldson are complainants, and Richard Peters and John Grigg are defendants, personally appears before the mayor of the city of Washington, in the District of Columbia, Daniel Brent, who, being carefully examined, and cautioned, and sworn to testify the whole truth, deposes upon the Holy Evangelists of Almighty God, and saith that deponent was chief clerk in the Department of State of the United States on the fourth of November, 1817, and has so continued to be chief clerk ever since; that the affairs and concerns of the Department were at that time, as they have continued to be, intimately and particularly known to him; and that, under the general superintendence and direction of the head of the Department for the time being, the administration of them has devolved upon, and been exercised by him, the deponent, and others under his immediate direction, in matters not especially requiring the attention of the Secretary himself; that, from the deponent's general recollection, refreshed by a reference to original and authentic documents made out at the times, and establishing the facts, eighty copies of the volume of Wheaton's Reports, containing the decisions of the Supreme Court of the United States for February term, 1817, were delivered to the said Department of State on or before the fourth day of November, 1817; that the same number of copies of the subsequent volumes of the said reports, from two to twelve, inclusively, were so delivered on or before the following times respectively: that containing the decisions of February term, 1818, on or before the twenty-fourth day of October, 1818; that of February term, 1819, on or before the twenty-first day of October, 1819; that of February term, 1820, on or before the eighteenth day of August, 1820; that of February term, 1821, on or before the fourteenth day of August, 1821; that of February term, 1822, on or before the nineteenth day of September, 1822; that of February term, 1823, on or before the thirtieth day of December, 1823; that of February term, 1824, on or before the tenth day of November, 1824; that of February term, 1825, on or before the twenty-third day of August, 1825; that of February term, 1826, on or before the tenth day of March, 1827; that of February term, 1827, on or before the twenty-third day of July, 1827. That all of said eighty volumes were received under the acts of

Congress giving a salary to the said reporter for preparing and furnishing the said reports; and deponent further saith, that there has always been, according to deponent's recollection, one or more complete sets of said reports, from the time of their publication, in the said Department of State; but that deponent is unable to recollect or state more particularly when the same were first placed in said Department, or for what purpose.

This deponent further states, that there does not appear any evidence in the Department, to his knowledge, that the succeeding volumes of said reports, or copies of them, were deposited in the Department by the maker or publisher of the same, as they were printed agreeably to the provisions of the laws of Congress for securing copy-rights to the authors, &c., &c., though the memorandum of similar deposites was kept in the Patent office, a branch of the Department of State, and not at the Department itself, for several of the first years referred to; and this deponent is under a thorough impression and belief that the memorandum of such deposites of books, and the giving of receipts for the same as they were lodged in the Department, were often neglected to be made and given during the whole period referred to; that said sets of Wheaton's Reports are placed in, and constitute a part of, the library of said Department, and that the books of the library are often lent out to persons, including members of the bar, for reference; that the books placed in the Department under the copy-right laws, are also placed in and constitute a part of the same library, and are subject to be lent out in the same manner as the other books of the library.

DANIEL BRENT.

DISTRICT OF COLUMBIA, *ss:*

On this thirtieth day of April, 1832, personally came before me, John P. Van Ness, mayor of the city of Washington, Daniel Brent, of said city, who was by me carefully examined, and cautioned, and sworn, to testify the whole truth, and made and subscribed the foregoing deposition, to be used for the complainants in the cause therein mentioned, and after the same was reduced to writing, by the said deponent, in my presence. That the reason for taking the said deposition is, that said witness lives at a greater distance from the place of trial than one hundred miles. And I certify that I am not of counsel or attorney to either of the parties, or interested in the event of the cause; and that no notice from me to the adverse party, or his attorney, to be present at the taking of the same, was made out or served upon the adverse party, or his attorney, as neither is within one hundred miles of the place of caption of this deposition.

In testimony whereof, I have hereunto set my hand and seal, this thirtieth day of April, 1832, and have sealed up the said deposition, and directed the same to the court therein mentioned.

JOHN P. VAN NESS, [SEAL.]
Mayor of the city of Washington.

Also certificates of the tenor following, that is to say:

Vol. 2d. Certificate of receipt of 80 copies at Department of State.

No. 36,633.

The United States *To Henry Wheaton*, Dr.

For this sum, being one year compensation, from the 3d of March, 1817, to 2d March, 1818, for reporting and publishing the decisions of the Supreme Court of the United States, February term, 1817, pursuant to act of Congress of 3d March, 1817, - - - - Dollars, 1,000

AUDITOR'S OFFICE, *March* 9, 1818.

P. FERRALL.

We have received from Mr. Henry Wheaton, of New York, eighty copies of the Reports of the Decisions of the Supreme Court of the United States, pursuant to the act of the last session of Congress "to provide for reports of decisions of the Supreme Court" within the period prescribed.

DEPARTMENT OF STATE, *Nov.* 4, 1817.

DANIEL BRENT,
Chief Clerk.

Vol. 3d. Certificate of receipt of 80 copies at Department of State.

No. 37,951.

The United States *To Henry Wheaton*, Dr.

1818, October 23. For annual compensation as reporter of the decisions of the Supreme Court of the United States, February term, 1818, - - - - $1,000

For the purpose of enabling the proper officers of the Treasury Department to ascertain whether the above claim for compensation is due, according to the provisions of the "act to provide for reports of the decisions of the Supreme Court," which act was approved on the 3d of March, 1817, it is hereby certified, that Henry Wheaton has delivered at the office of this Department eighty copies, as printed and published by him, of Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1818, without any expense to the United States, and that the delivery of that number of copies was completed on the 15th of the present month.

DEPARTMENT OF STATE, *Oct.* 24, 1818.

J. Q. ADAMS.

TREASURY DEPARTMENT, *Comp's Office*, *Oct.* 26, 1818.

A. A.

AUDITOR'S OFFICE, *Oct.* 26, 1818.

WM. PARKER.

Vol. 4th. Certificate of receipt of 80 *copies at Department of State.*

No. 39,703.

The United States *Dr. to Henry Wheaton.*

For amount allowed to him as an annual compensation for reporting and publishing the decisions of the Supreme Court of the United States, February term, 1819, pursuant to an act of Congress of 3d March, 1817. Dollars, 1,000

AUDITOR'S OFFICE, *October* 21, 1819.

WM. PARKER.

COMPTROLLER'S OFFICE, *October* 21, 1819.

LUND WASHINGTON.

In order to enable the proper officers of the Treasury Department to determine whether the reporter of cases argued and adjudged in the Supreme Court of the United States is entitled to the compensation allowed by law, according to the requisitions of "act to provide for reports of the decisions of the Supreme Court," for services in relation to the cases argued and adjudged at the term of that court, held February, 1819, I do hereby certify, that Henry Wheaton, the reporter aforesaid, has caused to be delivered at the city of Washington, to the order of the Department of State, and without any expense to the United States, eighty copies of a volume purporting to have been printed and published in the city of New York, entitled "Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1819. By Henry Wheaton, counsellor at law. Vol. IV.;" and that the said eighty copies were received on the day of the date hereof.

J. Q. ADAMS.

DEPARTMENT OF STATE, *October* 21, 1819.

Vol. 5th. Certificate of receipt of 80 *copies at Department of State.*

No. 41,141.

The United States *To Henry Wheaton,* Dr.

For this sum allowed him as annual compensation for reporting and publishing the decisions of the Supreme Court of the United States, February term, 1820, pursuant to an act of Congress of the 3d March, 1817, continued in force by an act of the 15th May, 1820, - Dollars, 1,000

AUDITOR'S OFFICE, *August* 18, 1820.

THOS. G. SLYE.

COMPTROLLER'S OFFICE, *August* 19, 1820.

LUND WASHINGTON.

In order to enable the proper accounting officers of the Treasury Department to decide with respect to the payment of the annual compen-

sation allowed to the reporter under the "act to provide for reports of the decisions of the Supreme Court," which was approved on the 3d of March, 1817, and continued in force for three years, by an act of the 15th of May, 1820, according to a provision contained in "an act making appropriations for the support of Government for the year one thousand eight hundred and twenty;" I do hereby certify, that eighty copies of "Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1820. By Henry Wheaton, Counsellor at Law. Vol. V."—have been duly delivered to me, as Secretary of State, without any expense to the United States.

Given under my hand, at the Department of State, this eighteenth day of August, in the year 1820.

J. Q. ADAMS.

Vol. 6th. Certificate of receipt of 80 *copies at Department of State.*

No. 42,970.

The United States *Dr. to Henry Wheaton.*

For amount of his compensation for reporting and publishing the decisions of the Supreme Court of the United States, February term, 1821, pursuant to an act of Congress of 3d March, 1817, continued in force by an act of 15th May, 1820, - - - - - Dollars, 1,000

AUDITOR'S OFFICE, 15*th August*, 1821.

WM. PARKER.

COMPTROLLER'S OFFICE, 18*th August*, 1821.

JOHN BURKE.

In order to enable the proper accounting officer of the Treasury Department to adjust and pay the annual compensation of the reporter of the decisions of the Supreme Court of the United States, to which he is entitled for the year 1821, according to the provisions of an act of Congress, passed on the 3d day of March, 1817, entitled "An act to provide for reports of the decisions of the Supreme Court," I do hereby certify, that Henry Wheaton did cause to be delivered at the Department of State, without any expense to the United States, on the 13th day of August, 1821, eighty copies of a volume of "Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1821. By Henry Wheaton, Counsellor at Law. Vol. VI."

In testimony whereof, I, John Quincy Adams, Secretary of State of the United States, have hereunto set my hand, this 14th day of August, 1821, in the forty sixth year of American independence.

JOHN QUINCY ADAMS.

Vol. 7th. Certificate of receipt of 80 *copies at Department of State.*

No. 44,669.

The United States *Dr. to Henry Wheaton.*

For amount of his compensation for reporting and publishing the decisions of the Supreme Court of the United States, February term, 1822, pursuant to an act of Congress of 3d March, 1817, continued in force by act of 15th May, 1820, - - - - - - Dollars, 1,000

COMPTROLLER'S OFFICE, *September* 21, 1822.

WM. PARKER.

AUDITOR'S OFFICE, *September 20th*, 1822.

P. B. ANDERSON.

In order to enable the proper accounting officers of the Treasury Department to adjust and pay the annual compensation of the reporter of the decisions of the Supreme Court of the United States, to which he is entitled for the year 1822, according to the provision of an act of Congress, passed on the 3d day of March, 1817, entitled "An act to provide for reports of the decisions of the Supreme Court," I do hereby certify, that Henry Wheaton did cause to be delivered at the Department of State, without any expense to the United States, on the 19th day of September, 1822, eighty copies of a volume of "Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1822. By Henry Wheaton, Counsellor at Law. Vol. VII."

In testimony whereof, I, John Quincy Adams, Secretary of State of the United States, have hereunto set my hand, this 19th day of September, 1822, in the forty-seventh year of American independence.

JOHN QUINCY ADAMS.

Vol. 8th. Certificate of receipt of 80 *copies at Department of State.*

No. 46,526.

The United States *Dr. to Henry Wheaton.*

For amount allowed him as an annual compensation for reporting and publishing the decisions of the Supreme Court of the United States, February term, 1823, pursuant to an act of Congress of the 3d of March, 1823, Dollars, 1,000

COMPTROLLER'S OFFICE, 2 *January*, 1824.

LUND WASHINGTON.

AUDITOR'S OFFICE, 1 *January*, 1824.

J. WILLIAMS.

In order to enable the proper accounting officers of the Treasury Department to adjust and pay the annual compensation of the Reporter of

the decisions of the Supreme Court of the United States, to which he is entitled for the year one thousand eight hundred and twenty-three, according to the provisions of an act of Congress passed on the 3d day of March, in the same year, entitled "An act to continue in force the act entitled an act to provide for reports of decisions of the Supreme Court, passed the 3d day of March, one thousand eight hundred and seventeen," I do hereby certify, that Henry Wheaton did cause to be delivered at the Department of State, without any expense to the United States, on the last day of November last, eighty copies of a volume of reports of cases argued and adjudged by the Supreme Court of the United States, February term, 1823. By Henry Wheaton, Counsellor at Law. Vol. VIII.

In testimony whereof, I, John Quincy Adams, Secretary of State of the United States, have hereunto set my hand, at the Department of State, this 30th December, A. D. 1823.

JOHN QUINCY ADAMS.

Vol. 9th. Certificate of receipt of 80 *copies at Department of State.*

No. 47,883.

The United States *Dr. to Henry Wheaton.*

For amount allowed him as an annual compensation for reporting and publishing the decisions of the Supreme Court of the United States, February term, 1824, pursuant to an act of Congress approved 3d March, 1823, Dollars, 1,000

AUDITOR'S OFFICE, *Nov.* 10, 1824.

WM. PARKER.

COMPTROLLER'S OFFICE, *Nov.* 11, 1824.

LUND WASHINGTON.

Eighty copies of the 9 volume of Reports of Cases Argued and Adjudged in the Supreme Court of the United States, last February term, by Henry Wheaton, have been received at this office agreeably to law.

DANIEL BRENT,
Chief Clerk.

DEPARTMENT OF STATE,
Washington, 10th November, 1824.

Vol. 10th. Certificate of receipt of 80 *copies at Department of State.*

49,233.

The United States *Dr. to Henry Wheaton.*

For amount of his compensation for reporting and publishing decisions of the Supreme Court of the United States, February term, 1825, pursuant to an act of Congress of 3d March, 1823, - - - - Dollars, 1,000

Mr. Brent informs that remittance is to be made to New York.

Deposition of Elijah Paine.

HENRY WHEATON AND ROBERT DONALDSON,
vs.
RICHARD PETERS AND JOHN GRIGG. } In equity.

Circuit court of United States, eastern district of Pennsylvania.

EASTERN DISTRICT OF PENNSYLVANIA, *ss:*

Elijah Paine, of the city of New York, counsellor at law, being duly sworn, deposes and says, that he has been a resident of said city since the year 1817; and since that time has seen, almost daily while they have been published, the daily newspapers published in said city, called the National Advocate, New York American, and Morning Herald; files of which papers are now by me produced, and known to me to be the files of said papers, and are the same files as are referred to in the annexed schedule of the advertisements of Wheaton's Reports copy right.

And this deponent further saith, that he has personally examined said files for the purpose, and has found that the records of the copy right of the respective volumes of said reports was published in the said papers, as is set down in the said schedule, made out from said files by this deponent.

And this deponent further saith, that, in the city and State of New York, it is customary to insert advertisements of legal notices and other legal proceedings, and advertisements generally required to be made by law, only once in each week, although the paper may be published daily.

E. PAINE.

Sworn before me, this 31st December, 1832.

WILLIAM MILNOR, *Ald'n.*

Advertisement of a copy right of Wheaton's Reports in New York American, published in the city of New York.

1822.	*Vol. seventh.*	1822.
Saturday, July 27.		Friday, August 23.
Tuesday, July 30.		Saturday August 31.
Saturday, August 10.		Saturday, September 7.
Saturday, August 17.		
1823.	*Vol. eighth.*	1823.
Friday, October 24.		Saturday, November 22.
Saturday, November 1.		" " 29.
Saturday, November 8.		" December 6.
" November 15.		" " 13.
1825.	*Vol. tenth.*	1825.
Friday, June 24.		Saturday, July 23.
Saturday, July 2.		" " 30.
" " 9.		" August 6.
" " 16.		" " 13.

1826.	*Vol. eleventh.*	1826.
Saturday, July 22.		Monday, August 14.
Monday, " 31.		" " 21.
" August 7.		" " 28.

1827.	*Vol. twelfth.*	1827.
Wednesday, June 27.		Monday, July 16.
Monday, July 2.		" " 23.
" " 9.		" " 30.

Published in the New York National Advocate.

1818.		*Volume third.*	1818.	
Tuesday,	August 25.		Friday,	September 11.
Wednesday,	" 26.		Saturday,	" 12.
Thursday,	" 27.		Monday	" 14.
Friday,	" 28.		Wednesday,	" 16.
Saturday,	" 29.		Thursday,	" 17.
Thursday,	September 3.		Friday,	" 18.
Friday,	" 4.		Saturday,	" 19.
Saturday,	" 5.		Monday,	" 21.
Monday,	" 7.		Tuesday,	" 22.
Tuesday,	" 8.		Wednesday,	" 23.
Wednesday,	" 9.		Saturday,	" 26.
Thursday,	" 10.			

1819.		*Volume fourth.*	1819.	
Saturday,	August 28.		Wednesday,	September 8.
Monday,	" 30.		Thursday,	" 9.
Tuesday,	" 31.		Friday,	" 10.
Wednesday,	September 1.		Saturday,	" 11.
Thursday,	" 2.		Monday,	" 13.
Friday,	" 3.		Tuesday,	" 14.
Saturday,	" 4.		Wednesday,	" 15.
Monday,	" 6.		Thursday,	" 16.
Tuesday,	" 7.		Friday,	" 17.

1820.		*Volume fifth.*	1820.	
Wednesday,	July 12.		Tuesday,	July 25.
Thursday,	" 13.		Wednesday,	" 26.
Friday,	" 14.		Thursday,	" 27.
Saturday,	" 15.		Friday,	" 28.
Monday,	" 17.		Saturday,	" 29.
Tuesday,	" 18.		Monday,	" 31.
Wednesday,	" 19.		Tuesday,	August 1.
Thursday,	" 20.		Wednesday,	" 2.
Friday,	" 21.		Thursday,	" 3.
Saturday,	" 22.		Friday,	" 4.
Monday,	" 24.		Saturday,	" 5.

Deposition of Elijah Paine.

HENRY WHEATON AND ROBERT DONALDSON,
vs.
RICHARD PETERS AND JOHN GRIGG. } In equity.

Circuit court of United States, eastern district of Pennsylvania.

EASTERN DISTRICT OF PENNSYLVANIA, *ss:*

Elijah Paine, of the city of New York, counsellor at law, being duly sworn, deposes and says, that he has been a resident of said city since the year 1817; and since that time has seen, almost daily while they have been published, the daily newspapers published in said city, called the National Advocate, New York American, and Morning Herald; files of which papers are now by me produced, and known to me to be the files of said papers, and are the same files as are referred to in the annexed schedule of the advertisements of Wheaton's Reports copy right.

And this deponent further saith, that he has personally examined said files for the purpose, and has found that the records of the copy right of the respective volumes of said reports was published in the said papers, as is set down in the said schedule, made out from said files by this deponent.

And this deponent further saith, that, in the city and State of New York, it is customary to insert advertisements of legal notices and other legal proceedings, and advertisements generally required to be made by law, only once in each week, although the paper may be published daily. E. PAINE.

Sworn before me, this 31st December, 1832.

WILLIAM MILNOR, *Ald'n.*

Advertisement of a copy right of Wheaton's Reports in New York American, published in the city of New York.

1822.	*Vol. seventh.*	1822.
Saturday, July 27.		Friday, August 23.
Tuesday, July 30.		Saturday August 31.
Saturday, August 10.		Saturday, September 7.
Saturday, August 17.		
1823.	*Vol. eighth.*	1823.
Friday, October 24.		Saturday, November 22.
Saturday, November 1.		" " 29.
Saturday, November 8.		" December 6.
" November 15.		" " 13.
1825.	*Vol. tenth.*	1825.
Friday, June 24.		Saturday, July 23.
Saturday, July 2.		" " 30.
" " 9.		" August 6.
" " 16.		" " 13.

1826.	*Vol. eleventh.*	1826.
Saturday, July 22.		Monday, August 14.
Monday, " 31.		" " 21.
" August 7.		" " 28.

1827.	*Vol. twelfth.*	1827.
Wednesday, June 27.		Monday, July 16.
Monday, July 2.		" " 23.
" " 9.		" " 30.

Published in the New York National Advocate.

1818.		*Volume third.*	1818.	
Tuesday,	August	25.	Friday, September	11.
Wednesday,	"	26.	Saturday, "	12.
Thursday,	"	27.	Monday "	14.
Friday,	"	28.	Wednesday, "	16.
Saturday,	"	29.	Thursday, "	17.
Thursday,	September	3.	Friday, "	18.
Friday,	"	4.	Saturday, "	19.
Saturday,	"	5.	Monday, "	21.
Monday,	"	7.	Tuesday, "	22.
Tuesday,	"	8.	Wednesday, "	23.
Wednesday,	"	9.	Saturday, "	26.
Thursday,	"	10.		

1819.		*Volume fourth.*	1819.	
Saturday,	August	28.	Wednesday,	September 8.
Monday,	"	30.	Thursday, "	9.
Tuesday,	"	31.	Friday, "	10.
Wednesday,	September	1.	Saturday, "	11.
Thursday,	"	2.	Monday, "	13.
Friday,	"	3.	Tuesday, "	14.
Saturday,	"	4.	Wednesday, "	15.
Monday,	"	6.	Thursday, "	16.
Tuesday,	"	7.	Friday, "	17.

1820.		*Volume fifth.*	1820.	
Wednesday,	July	12.	Tuesday,	July 25.
Thursday,	"	13.	Wednesday, "	26.
Friday,	"	14.	Thursday, "	27.
Saturday,	"	15.	Friday, "	28.
Monday,	"	17.	Saturday, "	29.
Tuesday,	"	18.	Monday, "	31.
Wednesday,	"	19.	Tuesday,	August 1.
Thursday,	"	20.	Wednesday, "	2.
Friday,	"	21.	Thursday, "	3.
Saturday,	"	22.	Friday, "	4.
Monday,	"	24.	Saturday, "	5.

Monday,	August	7.	Thursday,	August	17.
Tuesday,	"	8.	Friday,	"	18.
Wednesday,	"	9.	Saturday,	"	19.
Thursday,	"	10.	Monday,	"	21.
Friday,	"	11.	Tuesday,	"	22.
Saturday,	"	12.	Wednesday,	"	23.
Monday,	"	14.	Thursday, (paper not on file.)		
Tuesday,	"	15.	Friday,	August	25.
Wednesday,	"	16.	Saturday,	"	26.

Advertisements published in New York American, published in the city of New York.

Volume sixth.

1821.			1821.			1821.		
Tuesday,	July	17.	Monday,	August	6.	Thursday,	Aug.	23.
Wednesday	"	18,	Tuesday,	"	7.	Friday,	"	24.
Friday,	"	20.	Wednesday,	"	8.	Saturday,	"	25.
Saturday,	"	21.	Thursday,	"	9.	Monday,	"	27.
Tuesday,	"	24	Friday,	"	10.	Tuesday,	"	28.
Wednesday,	"	25.	Saturday,	"	11.	Wednesday,	"	29.
Thursday,	"	26.	Monday,	"	13.	Thursday,	"	30.
Friday,	"	27.	Tuesday,	"	14.	Friday,	"	31.
Saturday,	"	28.	Wednesday,	"	15.	Saturday,	Sept.	1.
Monday,	"	30.	Thursday,	"	16.	Monday,	"	3.
Tuesday,	"	31.	Friday,	"	17.	Tuesday,	"	4.
Wednesday,	Aug.	1.	Saturday,	"	18.	Wednesday,	"	5
Thursday,	"	2.	Monday,	"	20.	Thursday,	Sept.	6.
Friday,	"	3.	Tuesday,	"	21.	July 19 and 23, lost from file.		
Saturday,	"	4.	Wednesday,	"	22.			

Advertisements published in the Morning Herald, of the city of New York.

VOLUME FIRST.

First deposite of record for continuing the copy-right after the expiration of the first fourteen years, made on the 14th day of May, 1830.

	1830.		1830.		1830.		1830.	
Saturday,	May	15	May	26	June	2	June	9
	"	17	"	27	"	3	"	10
	"	20	"	28	"	4	"	11
	"	21	"	29	"	5	"	12
	"	22	"	31	"	7	"	14
	"	24	June	1	"	8	Tuesday "	15
	"	25						

Second deposite of same, made on the 14th June, 1830.

Wednesday,	June	16	June	19	June	23	June 26
	"	17	"	21	"	24	" 29
	"	18	"	22	"	25	" 30

July	1	July	8	July	15	July	19
"	1	"	9	"	16	"	20
"	3	"	13	"	17	"	21
"	7	"	14				

Admission of defendants as to publication.

And the admission of the defendants, by whom it was admitted at the hearing that the said publications were made as stated in the said deposition, and that the newspapers therein mentioned were considered as being produced and read in evidence, and found conformable to the statements in the said deposition contained.

3d volume of Condensed Reports.

And also the 3d volume of the Condensed Reports of the Supreme Court of the United States, being, as to pages 462 to 635, inclusive, the publication complained of in the bill, and admitted in the answer. (Prout volume.)

1st and 2d volumes of do.

And also the 1st and 2d volumes of the same work, volumes 1 to 9 of Cranch's Reports, and 3 and 4 of Dallas's Reports, which, by agreement, were considered as in evidence. (Prout volumes.)

Proposals by defendant to publish do.

Also the proposals of defendant for publishing the said Condensed Reports, dated Philadelphia, June, 1828, being the exhibit A, annexed to bill, and admitted in answer, and of same tenor, viz:

Proposals for publishing, by subscription, the Cases decided in the Supreme Court of the United States, from its organization to the close of January term, 1827.

The Supreme Court of the United States has been organized for thirty-eight years, and its decisions form in themselves almost an entire code of laws. Many of the difficult and important questions of constitutional construction, and of the nature and extent of the powers reserved, granted, and claimed, under the Constitution, have passed under the careful observance and judgment of the court. International questions of the highest moment; numerous points of general commercial law; principles upon which, as its deep and broad foundations, the law of evidence rests; the construction of statutes of the United States; the rules and statutes by which the titles derived under the United States, to the lands held by the enterprising and prosperous inhabitants of the vast and fertile regions of the south and west, are permanently governed —all have been subjects of investigation and final adjudication in this court.

The chancery jurisdiction of the Federal courts has brought before the Supreme Court, in submission to its scrutiny and judgment, most of the rules of equity practice, and much of general chancery law; and the right of appeal and writ of error, by which cases arising in the courts

of the District of Columbia may be removed for final determination, has obliged the court to decide many points which, but for this domestic jurisdiction, might not have been brought under its consideration. Many of the questions which are presented in cases from the District of Columbia, are of usual occurrence in the common transactions and business of life, and are of very general application and influence.

Considerations growing out of these circumstances seem to impose the necessity that the law thus general, thus established, thus supreme, should be universally known. That there should be found but few copies of the reports of the cases decided in the Supreme Court of the United States in many large districts of our country, in which there are Federal and State judicial tribunals, is asserted to be a frequent fact. In some of those districts, it is positively averred that not a single complete copy of all the reports is in the possession of any one, and thus the great and overruling law of the land is almost unknown in many populous parts of the Union. These things should not be.

It will not be denied that these circumstances are the consequences of the heavy expense which must be incurred by the purchase of the two volumes of the Reports of Mr. Dallas, the nine volumes of Mr. Cranch, and the twelve of Mr. Wheaton's Reports—together twenty-three volumes; the cost of which exceeds one hundred and thirty dollars.

It is proposed to publish all the cases adjudged in the Supreme Court of the United States, from 1790 to 1827, inclusive, in a form which will make the work authority in all judicial tribunals, and to complete the publication in not more than six volumes; the price of which shall not exceed thirty-six dollars. The opinion of the court upon all the points decided in every case will be given in the language of the court expressing the determination, and such a statement or abstract of the facts on the office record of the cause will be made, as will fully [and accurately] exemplify the decisions of the court. The reports this day published will continue the series.

The matter will not be abbreviated, so as to omit any thing which is important, or may be in any manner a part of the essential features of the case.

An abridgment is not contemplated; the work is intended to be of a higher order; and it will only be from want of ability in the editor, if it does not contain a complete and faithful representation of the material and useful parts of every case adjudged by the court up to the period stated. If there are any unpublished cases decided by the court, and the editor can obtain them, they will be inserted in this work.

An effort will be made to give a reference in each case to the parallel cases which have been decided by the court, and, in some instances, the reported and manuscript decisions upon the same questions, in the circuit courts of the United States, will be noted.

Each case will be preceded by a copious syllabus, itself a digest of the matter it contains; and, after the work shall be completed, all this matter will be arranged in a supplemental or general index, in which will be also included abstracts of the cases which may be contained in

the volumes the editor, as the reporter of the decisions of the court, may publish hereafter, prior to the period when he shall have fully executed the contemplated work. This may form an additional volume, if the profession and the public shall require it.

It is not considered that the work now announced, and part of the materials for which are arranged, will interfere with the interests of those gentlemen who have preceded the reporter in the station he has the honor to hold. Deeply as he is impressed with the absolute necessity of the work announced, he would exceedingly regret such an interference. Their volumes will always be standards for reference, and of the highest authority; and every member of the profession who has ability to purchase them will own them. The legal rights of the proprietors of those most able and valuable works will be carefully respected. Nothing will be inserted in the contemplated publication but matters which are of public record, and which, from their very nature, cannot be the subject of literary property. The opinions of the court, which are public property, are referred to.

Indeed, the work proposed, like the Digest of Mr. Wheaton, in which was included all the points reported as decided in the volumes of Mr. Dallas and Mr. Cranch, will, it is believed, increase the demand for the original reports, as their superior merits and accuracy will, by its means, become more generally known.

A valuable addition to the library of every lawyer will soon be made in a digest of all the decisions of the courts of the United States, which is nearly completed, by Richard S. Coxe, esquire, of the city of Washington, a gentleman of great legal learning, discrimination, and judgment, upon a plan of very superior arrangement; and this, too, as well as the work which has been commenced by the reporter, will contribute to increase the reputation of the original reports of cases decided in the Supreme Court of the United States, for which the public are so largely indebted to Mr. Dallas, Mr. Cranch, and Mr. Wheaton.

Should the proposed work have the support of the profession, to whose patronage it is now respectfully submitted, it is intended to put the first volume to press without delay, and that the whole shall be completed at an early period. Subscriptions are therefore earnestly solicited, and those who are disposed to encourage the undertaking will promote its speedy accomplishment, by giving to it promptly the sanction of their names upon the subscription list.

The terms of subscription are, for each volume, neatly bound, six dollars. Booksellers and others who subscribe for twenty copies, will be entitled to a deduction of twenty per cent., and four months credit; for fifty copies twenty-five per cent., and six months' credit. The price to non-subscribers will be six dollars in boards.

Subscriptions received by Philip H. Nicklin, law bookseller, Chesnut street, Philadelphia.

PHILADELPHIA, *June*, 1828.

Letter—Defendant Peters to S. Gould.

Also a letter of 14th June, 1828, from defendant Peters to S. Gould, of New York, in these words:

PHILADELPHIA, *June* 14, 1828.

Mr. S. GOULD, *New York:*

I have received your letter of the 12th. Mine, to which it is a reply, contains all I can say on the subject of the reports of the late decisions of the Supreme Court United States, save, only, that I am perfectly confident in the liberality of Mr. Nicklin, and that I feel assured he will, in the course of his agency for me, act with entire propriety towards yourself and all others.

I enclose, for your *private* perusal, the proposals for the work I have commenced. You will find an advantage offered to you, and to all others who shall obtain subscribers. I have no objection to modify the terms for those who undertake to procure subscribers, so as to give to every one who obtains twenty subscribers twenty per cent., fifty subscribers, twenty-five per cent., and one hundred subscribers, thirty per cent.; the subscribers to take and pay for the books before the 20, 25, or 30 per cent. shall be paid. I shall be prepared next week to attend to proposals upon this subject.

I by no means consider that the work I propose will injure the sale of Mr. Wheaton's valuable reports. In truth, very many persons will be disposed to buy his volumes after my Condensed Cases shall come up to 1816, or anticipating that fact. I do know that many do not now purchase Wheaton, because they have not Cranch and Dallas, and who are unwilling to purchase these reports. Again, it is to be recollected that seven terms must elapse before I arrive at the year 1816. These are my sincere convictions.

I am, sir, respectfully yours,

RICH. PETERS, Jr.

Letter from Donaldson to Peters.

Also a letter from complainant Donaldson to defendant Peters, dated 25th September, 1828, in these words:

R. PETERS, esq.:

SIR: In a letter just received from a bookseller in Boston, I have had the following query put to me: Please inform us if the edition proposed by Mr. Peters, of Philadelphia, to be published by subscriptions, viz., the cases decided in the Supreme Court of the United States, from its organization to the close of January term, 1827, and to know if it is to be published with my consent, and when it is to be out. You will oblige me by answering the former and latter part of this query, as I would not wish, in my answer to said bookhouse, to give other than the facts. For myself, I readily anticipate your answer; that you will not issue such a work, the effect of which would be to me literally ruinous on a large amount of property I have vested in the work, which I have been endeavoring to accumulate from my labor and care of 12 years;

likewise the injury that would be done to my absent friend, Henry Wheaton, esq., by such a publication, and the result of which would be to deprive him and his family of the pecuniary reward due to his professional labors of 12 years. However, should you see fit to bring out such a work, we must, under such circumstances, look to the laws of our country for redress of so great an injury as would thereby be done us. But, ere you receive this, I have little doubt but that you have determined to pursue a more honorable course, by having abandoned said project. *This* being the case, please, by a frank avowal, enable me to make a public declaration of the fact. I assure you, since the issue of your proposals, I have not been able to effect any sales that signifies of said books; and many stood ready to purchase, but declined, saying if you brought out such a work they would wait. Please restore me to the use of my property affected thereby.

Very respectfully, yours, &c.,

ROBERT DONALDSON.

25*th September*, 1828.

Peters's answer to do.

Also defendant Peters's reply to said letter, dated 26th Sept., 1828, with certain enclosures therein referred to, which reply and enclosures are in these words:

Copy of letter from honorable Judge Cranch to R. Peters, jr., and enclosures.

WASHINGTON, D. C., July 18, 1828.

DEAR SIR: I have been informed that you propose to publish a new edition of my reports. It is with great reluctance that I deem it my duty to others to inform you, that I have not yet been reimbursed the actual expense of publishing my three last volumes by one thousand dollars, and that I must insist upon all my legal rights.

Answer.

PHILAD'A, August 14, 1828.

Hon. W. CRANCH, *Washington.*

DEAR SIR: I have been absent from this city since the 18th of July, and this moment have your letter of that date.

I do assure you, in the kindest spirit, I shall not object to your insisting on your legal rights in reference to your Reports; and, should I invade them, I must submit to the consequences. I do not, nor have I ever, desired to propose to publish a new edition of your Reports. My plan is to publish, in a condensed form, the decisions of the Supreme Court of the United States; and as the opinions of the court cannot be the subject of copy-right, neither can the facts of the cases be the property of any one, my work will not be obnoxious to the laws protecting literary property. These are opinions which have had high professional sanction, and by which I am willing to abide. I have is-

Letter—Defendant Peters to S. Gould.

Also a letter of 14th June, 1828, from defendant Peters to S. Gould, of New York, in these words:

PHILADELPHIA, *June* 14, 1828.

Mr. S. GOULD, *New York:*

I have received your letter of the 12th. Mine, to which it is a reply, contains all I can say on the subject of the reports of the late decisions of the Supreme Court United States, save, only, that I am perfectly confident in the liberality of Mr. Nicklin, and that I feel assured he will, in the course of his agency for me, act with entire propriety towards yourself and all others.

I enclose, for your *private* perusal, the proposals for the work I have commenced. You will find an advantage offered to you, and to all others who shall obtain subscribers. I have no objection to modify the terms for those who undertake to procure subscribers, so as to give to every one who obtains twenty subscribers twenty per cent., fifty subscribers, twenty-five per cent., and one hundred subscribers, thirty per cent.; the subscribers to take and pay for the books before the 20, 25, or 30 per cent. shall be paid. I shall be prepared next week to attend to proposals upon this subject.

I by no means consider that the work I propose will injure the sale of Mr. Wheaton's valuable reports. In truth, very many persons will be disposed to buy his volumes after my Condensed Cases shall come up to 1816, or anticipating that fact. I do know that many do not now purchase Wheaton, because they have not Cranch and Dallas, and who are unwilling to purchase these reports. Again, it is to be recollected that seven terms must elapse before I arrive at the year 1816. These are my sincere convictions.

I am, sir, respectfully yours,

RICH. PETERS, Jr.

Letter from Donaldson to Peters.

Also a letter from complainant Donaldson to defendant Peters, dated 25th September, 1828, in these words:

R. PETERS, esq.:

SIR: In a letter just received from a bookseller in Boston, I have had the following query put to me: Please inform us if the edition proposed by Mr. Peters, of Philadelphia, to be published by subscriptions, viz., the cases decided in the Supreme Court of the United States, from its organization to the close of January term, 1827, and to know if it is to be published with my consent, and when it is to be out. You will oblige me by answering the former and latter part of this query, as I would not wish, in my answer to said bookhouse, to give other than the facts. For myself, I readily anticipate your answer; that you will not issue such a work, the effect of which would be to me literally ruinous on a large amount of property I have vested in the work, which I have been endeavoring to accumulate from my labor and care of 12 years;

likewise the injury that would be done to my absent friend, Henry Wheaton, esq., by such a publication, and the result of which would be to deprive him and his family of the pecuniary reward due to his professional labors of 12 years. However, should you see fit to bring out such a work, we must, under such circumstances, look to the laws of our country for redress of so great an injury as would thereby be done us. But, ere you receive this, I have little doubt but that you have determined to pursue a more honorable course, by having abandoned said project. *This* being the case, please, by a frank avowal, enable me to make a public declaration of the fact. I assure you, since the issue of your proposals, I have not been able to effect any sales that signifies of said books; and many stood ready to purchase, but declined, saying if you brought out such a work they would wait. Please restore me to the use of my property affected thereby.

Very respectfully, yours, &c.,

ROBERT DONALDSON.

25th September, 1828.

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WASHINGTON, D. C., July 18, 1828.

DEAR SIR: I have been informed that you propose to publish a new edition of my reports. It is with great reluctance that I deem it my duty to others to inform you, that I have not yet been reimbursed the actual expense of publishing my three last volumes by one thousand dollars, and that I must insist upon all my legal rights.

Answer.

PHILAD'A, August 14, 1828.

Hon. W. CRANCH, *Washington.*

DEAR SIR: I have been absent from this city since the 18th of July, and this moment have your letter of that date.

I do assure you, in the kindest spirit, I shall not object to your insisting on your legal rights in reference to your Reports; and, should I invade them, I must submit to the consequences. I do not, nor have I ever, desired to propose to publish a new edition of your Reports. My plan is to publish, in a condensed form, the decisions of the Supreme Court of the United States; and as the opinions of the court cannot be the subject of copy-right, neither can the facts of the cases be the property of any one, my work will not be obnoxious to the laws protecting literary property. These are opinions which have had high professional sanction, and by which I am willing to abide. I have is-

sued a prospectus of my work, a copy of which I take the liberty to enclose. From every part of the United States I have received expressions of the highest approbation of my plan; and the beneficial influence, in our country, of placing the decisions of the court within the power of many who cannot purchase the reports at their present price, is admitted by all. I have not adopted the opinion, that my work will injure the sale of your or Mr. Wheaton's Reports; on the contrary, I think they will be more in demand, as their more valuable contents shall, by my means, be made more known. All booksellers say, "digests" promote the sale of original works. My work will be a "digest" of the facts of the cases, and the opinions of the court—no more. I beg you will not consider this as intended to extract from you any observations on my plan. I assure you I am desirous to have our relations upon this matter on the ground they rest in connexion with your letter of the 18th July.

Mr. ROBERT DONALDSON, *New York*.

SIR: In reply to your letter of the 25th, I have forwarded you a copy of my correspondence with Judge Cranch, to which I refer for my views and determinations upon the matters which are the subject of your communication.

I am, your ob't serv't,
RICH. PETERS.

PHILA., Sept'r 26, 1828.

Letter from Peters to Grigg.

Also a letter of 20th March, 1831, from defendant Peters to defendant Grigg, being exhibit B, annexed to bill, and admitted in answer, and of same tenor, viz:

(Copy.)

WASHINGTON, March 2, 1831.

MR. JOHN GRIGG, *Philadelphia*.

DEAR SIR: Your letter of the 28th ultimo, communicating a copy of a letter from Mr. O. Halsted, of New York, under date of the 26th of February, has been received. In that letter Mr. Halsted states, that he is "threatened with a prosecution if he sells the third volume of the Condensed Reports of Cases in the Supreme Court of the United States, 'edited by me,' as it contains a condensation of the first volume of Wheaton's Reports." Mr. Halsted also says, "I should be pleased to sell the work, and no doubt I could dispose of a number of copies, but do not wish to involve myself in difficulty."

The prudence and caution of Mr. Halsted are proper; and I do not complain of them. It is for myself, who have undertaken the publishing of this work, with a firm determination to complete it, to encounter every "difficulty" which may attend the same. I have heretofore stated to you in writing, and I now repeat the declaration, that I am ready to

encounter those difficulties; nor do I ask any one to share them. I have said it, and I now repeat the assurance, I will indemnify, and save harmless from all costs and damages, all who publish or sell the work.

The prospectus of the Condensed Reports has been before the public for upwards of two years. In that prospectus, it was distinctly and explicitly avowed, and the same is stated in the title pages of the first and second volumes, published in 1830, that the work will contain "the whole series of the decisions of the Supreme Court of the United States from its organization to the commencement of Peters' Reports in 1827." In express terms, the prospectus declares, "that the Condensed Reports would contain the cases found in the volumes of Mr. Dallas, the nine volumes of Mr. Cranch, and the twelve volumes of Mr. Wheaton."

Thus, sir, all those who "threaten a prosecution," have had a full knowledge of the entire scope and purpose of this work for the period mentioned; and no application has been made to any judicial tribunal to stay its progress. Nor is this all; as soon as my work was announced, I was applied to, by a gentleman of New York, a bookseller, and was required to relinquish it on the ground that it would violate his copy-right in the reports of Mr. Wheaton. He "threatened" me with the consequences of going on in my purpose. To this I replied, promptly, that I would proceed with the publication, and that he was at liberty to employ all legal means for the maintenance and protection of his rights, if any existed.

It is known that the laws of the United States relative to copy-right afford those means. An injunction may be obtained, if a copy-right has been secured in a work, to prevent the publication of any work which will interfere with the property so secured. The injunction will be perpetuated, if cause exists; and the protection will be permanent. Any injury which the proposal of the unlawful publication may have threatened will be remedied, and the notoriety of judicial proceedings will restore the author or proprietor of the original work to all the rights and benefits of his copy-right. It is not necessary that the rival work shall have been published to give the court jurisdiction in the case. The proposition to publish it is a sufficient foundation for the action of the courts of the United States to proceed by injunction, under the acts of Congress.

Why, therefore, it is asked—nay, it is demanded—has not this, have not other measures of an equivalent character been resorted to by those who have "threatened," and do "threaten," to prosecute for the publication of my Condensed Reports? It is because those who thus "threaten," know there is no copy-right for the Reports of Mr. Wheaton, or for any one volume of the work. They know that the requisites of the acts of Congress, of 1790 or 1802, have not been complied with. They know that if they present themselves before a court to assert a copy-right, they would fail in the attempt, and that it would be judicially declared that no such copy-right exists. While they thus

avoid the public and certain consequences of such a proceeding, they hope to profit by threatening the timid, and all those who are properly desirous to avoid "difficulty." Thus they gain by threats which they do not intend to carry into action, and they avoid the exposure of the weakness of the title they assert.

I aver that there does not exist a copy right legally secured to any one volume of Mr. Wheaton's Reports, and I challenge an application to any court to maintain such a right. In addition to other objections to the pretended claim to a copy right, resting on other facts and principles, I have in my possession the certificate of the Secretary of State of the United States, that not a single volume of Mr. Wheaton's Reports has been deposited in the office of the Secretary of State for the purpose of securing a copy right. This omission is fatal; so it has been decided, as I am well assured, in New York, and I abstract a decision of Mr. Justice Washington, which is conclusive on the question.

"To entitle the author of a book to a copy right, he must not only deposite a printed copy of such book in the clerk's office, but he must also publish a copy of the record of the title within the period and for the length of time prescribed by the third section of the act of 1790, and must also deposite a copy of the book in the Secretary of State's office within six months after the publication of the book. He must perform all the requisites of the acts of 1790 and 1802, before he is entitled to the benefits of the act—the act will admit of no other construction." Ewer et al. vs. Coxe and Carey and Lea, 4 Washington's Circuit Court Reports, 487. 3 Peters' Condensed Reports, 373, notes.

A few words more on this matter. Mr. Halstead says "he is threatened with a prosecution for selling the third volume of the Condensed Reports, because the first volume of Wheaton is condensed in that volume." Can there be a more complete proof of the absence of all right in those who threaten than is exhibited by this fact? It is in New York those threats are made; no one in Philadelphia has threatened, and yet no copy right for 1st Wheaton was ever asserted to belong to any one in New York, and had one been regularly secured, it has expired. The work was entered for copy right by the venerable Matthew Carey, esquire, of our city, on the 20th of December, 1816. The law gives a right, if its requisites are complied with, for fourteen years; that period terminated on the 20th of December, 1830, and the third Condensed Reports was not published until February, 1831.

I can add no more on this subject; the work will go on. The fourth volume, to contain at least three volumes of Mr. Wheaton's Reports, will be put to the press soon after the month of April. I invite investigation of the legality of my publication. I challenge it. I stipulate to indemnify and save harmless all who publish or sell the work, and to take defence in any prosecution which may be instituted against them. I authorize and request you to furnish a copy of this letter, either printed or written, to Mr. Halsted, and to any other person.

I request him to hand a copy of it as from me, and by my authority, to those who have threatened him, or may threaten him, with a prosecution.

Nothing, sir, can stay the progress or the success of the Condensed Reports, as you know the greater part of the first edition has been disposed of, and you have proposed to me to put another to the press.

Congress, yesterday, by a joint resolution, passed under circumstances particularly gratifying to me, authorized the purchase of seventy copies of the work. It is in constant use in the Supreme Court of the United States by the bench and the bar. Every day new demands are made for it, and additional evidence received of its usefulness.

It has placed the decisions of the Supreme Court within the power of very many who could not purchase the works of Mr. Dallas, Mr. Cranch, and Mr. Wheaton, in consequence of their great cost.

All the cases decided in the Supreme Court of the United States, reported by Mr. Dallas, Mr. Cranch, and Mr. Wheaton, will be contained in this work, with notes of all the circuit court decisions, and it may be purchased for one-fifth of the original cost of those works.

It will diffuse a knowledge of the decisions of that high court and of those of the circuit courts, and will thus strengthen and secure the foundations of the federal judiciary. These will be my rewards for the labors of the publication, and their anticipation has been the chief inducement to undertake it.

I am yours, very respectfully,

RICHARD PETERS.

Evidence on part of the defendants.

And, thereupon, the respondent, Richard Peters, gave in evidence a certificate of the 6th July, A. D. 1828, from the Department of State of the United States, in these words:

Peters's Rep's, vol. 1.

No. 464.—To all to whom these presents shall come, greeting:

Certificate of deposite of copy of work at Department of State.

I certify that Richard Peters, junior, has, this sixth day of July, in the year of our Lord one thousand eight hundred and twenty-eight, and of independence the fifty-second, deposited in the office of the Department of State a certain book, consisting of 744 pages, entitled—

"Reports of cases argued and adjudged in the Supreme Court of the United States, January term, 1828. By Richard Peters, junior, counsellor at law, and reporter of the decisions of the Supreme Court of the United States. Vol. I."

The copy right whereof is claimed by Richard Peters, junior, as proprietor, under the provisions of "An act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies during the times therein mentioned," passed on the 31st day of May, A. D. 1790; and of "An act supplementary to an act, entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the time therein mentioned,' and ex-

tending the benefits thereof to the arts of designing, engraving, and etching historical and other prints," passed on the 29th of April, A. D. 1802.

Given under my hand, as the Secretary of the Department of State of the United States, with the seal of the said Department [L. S.] affixed, at the city of Washington, the day and year first above written.

H. CLAY.

Do., do., Peters's reports, vol. 3.

Also another such certificate of the 3d day of July, A. D. 1830, in these words:

No. 970.

To all to whom these presents shall come, greeting:

I certify, that Richard Peters has, this third day of July, in the year of our Lord one thousand eight hundred and thirty, and of independence the fifty-fourth, deposited in the office of the Department of State a certain book, consisting of five hundred and forty-eight pages, entitled—

"Reports of cases argued and adjudged in the Supreme Court of the United States, January term, 1830. By Richard Peters, counsellor at law, and reporter of the Supreme Court of the United States. Vol. 3."

The copy right whereof is claimed by Richard Peters, as proprietor, under the provisions of "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned," passed on the 31st day of May, A. D. 1790; and of "An act supplementary to an act, entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the time therein mentioned,' and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints," passed on the 29th of April, A. D. 1802.

Given under my hand, as the Secretary of the Department of State of the United States, with the seal of the said Department [L. S.] affixed, at the city of Washington, the day and year first above written.

MARTIN VAN BUREN.

Condensed reports, vol. 2.

Also another such certificate of the 23d day of August, A. D. 1830, in these words:

No. 1020.

To all to whom these presents shall come, greeting:

I certify, that Richard Peters has, this twenty-third day of August, in the year of our Lord one thousand eight hundred and thirty, and of independence the fifty-fifth, deposited in the office of the Department of State a certain book, consisting of seven hundred and thirty-six pages, entitled—

"Condensed reports of cases in the Supreme Court of the United States, containing the whole series of the decisions of the court, from its organization to the commencement of Peters's Reports, at January term, 1827; with copious notes of parallel cases in the Supreme and circuit courts of the United States. Edited by Richard Peters, counsellor at law, and reporter of the decisions of the Supreme Court of the United States. Vol. 2. From February term, 1807, to February term, 1813, inclusive."

The copy right whereof is claimed by Richard Peters, as proprietor, under the provisions of "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned," passed on the 31st day of May, A. D. 1790, and of "An act supplementary to an act, entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned,' and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints," passed on the 29th of April, A. D. 1802.

Given under my hand, as the Secretary of the Department of State of the United States, with the seal of the said Department
[L. S.] affixed, at the city of Washington, the day and year first above written.

M. VAN BUREN.

Peters's Reports, vol. 4.

Also another such certificate of the 25th day of August, A. D. 1830, in these words:

No. 1021.

To all to whom these presents shall come, greeting:

I certify, that Richard Peters has, this twenty-fifth day of August, in the year of our Lord one thousand eight hundred and thirty, and of independence the fifty-fifth, deposited in the office of the Department of State a certain book, consisting of six hundred pages, entitled—

"Reports of cases argued and adjudged in the Supreme Court of the United States, January term, 1830. By Richard Peters, counsellor at law, and reporter of the decisions of the Supreme Court of the United States. Vol. 4."

The copy right whereof is claimed by Richard Peters, as proprietor, under the provisions of "An act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies, during the times therein mentioned," passed on the 31st day of May, A. D. 1790; and of "An act supplementary to an act, entitled 'An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned,' and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints," passed on the 29th of April, A. D. 1802.

Given under my hand, as Secretary of the Department of State of the United States, with the seal of the said Department affixed,
[L. S.] at the city of Washington, the day and year first above written.

M. VAN BUREN.

Decree.

1833, January 9th. This cause came on to be heard on bill, answer, and replication, and the testimony oral and written, and documents and writings in evidence. Whereupon it is decreed, that the injunction be dissolved, and that the complainants' bill be dismissed, with costs.

Whereupon the complainants aforesaid, by John Cadwalader, esq., their attorney, pray leave to appeal from the said decree to the Supreme Court of the United States, and the same is allowed.

1833, April 1. By writing filed, it is agreed that the twelve volumes of Wheaton's Reports, the three volumes of the Condensed Reports of the Supreme Court, the nine volumes of Cranch's Reports, and the 3d and 4th volumes of Dallas's Reports, be considered as forming part of the record in this cause, and be referred to accordingly, with the same effect as if thereto annexed.

And now, to wit, on this twenty-third day of April, A. D. 1834, the mandate of the Supreme Court of the United States, being read and filed, is in the words following, to wit:

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the honorable the
[L. S.] judges of the circuit court of the United States, for the district of Pennsylvania, greeting.

Whereas lately, in the circuit court of the United States, for the district of Pennsylvania, before you, or some of you, in a cause wherein Henry Wheaton and Robert Donaldson were complainants, and Richard Peters and John Grigg defendants, in chancery, the decree of the said circuit court was in the following words, viz: "whereupon it is decreed that the injunction be dissolved, and that the complainants' bill be dismissed with costs:" as by the inspection of the transcript of the record of the said circuit court, which was brought into the Supreme Court of the United States, by virtue of an appeal, agreeably to the act of Congress in said case made and provided, fully and at large appears. And whereas, at the present term of January, in the year of our Lord eighteen hundred and thirty-four, the said cause came on to be heard before the said Supreme Court on the said transcript of the record, and was argued by counsel. On consideration whereof, it is ordered, adjudged, and decreed by this court, that the judgment and decree of the said circuit court in this cause be and the same is hereby reversed, and that this cause be and the same is hereby remanded to the said circuit court, with directions to that court to order an issue of facts to be examined and tried by a jury at the bar of said court, upon this point, whether the said Wheaton as author, or any other person as proprietor, had complied

with the requisites prescribed by the 3d and 4th sections of the said act of Congress, passed the 31st day of May, 1790, in regard to the volumes of Wheaton's Reports in the said bill mentioned, as in regard to one or more of them, in the following particulars, viz: Whether the said Wheaton, or proprietor, did, within two months from the date of the recording thereof in the clerk's office of the district court, cause a copy of the said record to be published in one or more of the newspapers printed in the resident States, for four weeks, and whether the said Wheaton, or proprietor, after the publishing thereof, did deliver, or cause to be delivered, to the Secretary of State of the United States, a copy of the same, to be preserved in his office, according to the provisions of the said third and fourth sections of the said act; and that such further proceedings be had therein as to law and justice may appertain, and in conformity to the opinion of this court.

March 19th.

You, therefore, are hereby commanded, that such further proceedings be had in said cause, in conformity to the opinion and decree of this court, as, according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding.

Witness the honorable John Marshall, chief justice of said Supreme Court, the second Monday of January, in the year of our Lord one thousand eight hundred and thirty-four.

WM. THOS. CARROLL,
Clerk of the Supreme Court U. S.

And thereupon, to wit, on the twenty-fourth day of May, A. D. 1834, it is ordered, that the plaintiffs within thirty days file a declaration in assumpsit, entitled as of the present sessions, to try the question stated in the mandate of the Supreme Court, in the form of a wager, as to each of the twelve volumes of Wheaton's Reports, the copy right whereof is in controversy, the declaration to contain twelve or more counts, and at least one count as to each volume, prepared (mutatis mutandis) according to the form of the draught submitted to the court of a count as to the first volume. That, within thirty days from the filing thereof, the defendants plead issuably, and the plaintiffs thereupon join issue, that the cause be set down for trial by special jury, at the next session. That the defendants on the trial admit the several promises alleged in the declaration, and all the allegations of the several counts respectively, which precede the allegations of said promises; contesting and requiring proof of the subsequent parts only of said counts respectively. That the jury, if they find for the plaintiffs, do specify whether they so find upon all, or (if not upon all) upon which of the counts they so find; that no judgment on such verdict be docketted, and that no execution be issued thereon.

Richard Peters and John Grigg, citizens of the State of Pennsylvania, defendants, were attached to answer Henry Wheaton and Robert Donaldson, citizens of the State of New York, plaintiffs, of a plea of *of*

trespass on the case, &c. Whereupon the said plaintiffs, by Charles Chauncey, their attorney, complain, for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the 18th day of December, 1816, at the district aforesaid, Matthew Carey, of the said district, claimed as proprietor the right of a book, entitled Reports of Cases argued and adjudged in the Supreme Court of the United States, February Term, 1816, by Henry Wheaton, Counsellor at Law. Volume I. And the said Matthew, before publication of the said book in this count mentioned, to wit, on the day and year aforesaid, at the district aforesaid, did deposit a printed copy of the said title thereof in the clerk's office of the district court for the district of Pennsylvania, (where the said Matthew then resided,) in conformity to the act of Congress of the United States, entitled "an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned, passed on the thirty-first day of May, 1790. And the said clerk did thereupon, then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned; and the said Matthew did further then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the thirtieth day of April, 1802, give information by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, in the page immediately following the title of the said book. And afterwards, and before the making of the promise and understanding in this count mentioned, to wit, at the day and year aforesaid, at the district aforesaid, a certain discourse was had and moved by and between the said plaintiffs and the said defendants, wherein a question arose whether the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks, and whether said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State, a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the said act of the Congress of the United States passed on the thirty-first day of May, 1790. In which said discourse the said plaintiff then and there averred the affirmative of the said question to be true; and the said defendants then and there averred the contrary, and that the negative thereof was true; whereupon the said defendants, in consideration that, at the then special instance and request, the said plaintiffs had then and there undertaken, and did undertake, and faithfully promised the said defendants to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there on their part undertake and

faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if the said affirmative of the said question was true. And the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Carey, as proprietor of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks, and as proprietor of same book, did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the third and fourth sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid, whereof the said defendants then and there had notice, and were thereupon then and there requested to pay, and thereby then and there became liable to pay, the said plaintiffs the said sum of money last mentioned, according to the promise and undertaking in this count mentioned.

And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the first day of September, 1817, at the eastern district of Pennsylvania, to wit, at the southern district of New York, Henry Wheaton, of that district, claimed as author the right of a book, entitled Reports of Cases argued and adjudged in the Supreme Court of the United States, February term, 1817, by Henry Wheaton, Counsellor at Law, vol. 2d, and the said Henry, before publication of the said book in this count mentioned, to wit, on the day and year (last) aforesaid, at the district aforesaid, did deposit a printed copy of the said title there and in the clerk's office of the district court for the district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned, passed on the thirty-first day of May, 1790; and the said clerk did thereupon, then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned; and the said Henry did further, then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, in the page immediately following the title of the said book; and afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at the district aforesaid, a certain discourse was had and moved by and between the said plaintiffs and the said defendants, wherein a question arose whether the said Wheaton as author, or any other person as proprietor, of the said book in this count mentioned,

did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks ; and whether said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of third and fourth sections of the said act of the Congress of the United States, passed the 31st day of May, 1790, in which said discourse the said plaintiffs then and there averred the affirmative of the said question to be true ; and the said defendants then and there averred the contrary, and that the negative thereof was true ; whereupon, the said defendants, in consideration that at their special instance and request the said plaintiffs had then and there undertaken, and did undertake, and faithfully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there on their part undertake, and faithfully promise the said plaintiffs, to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of the said question was true. And the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Wheaton, as author of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks, and as author of same book did, within six months after the publication thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the third and fourth sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district last aforesaid ; whereof the said defendants then and there had notice, and were thereupon then and there requested to pay, and thereby then and there became liable to pay, the said plaintiffs the said sum of money last mentioned, according to their promises and undertaking in this count mentioned.

And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the 19th day of August, 1818, at the eastern district of Pennsylvania, to wit, at the southern district of New York, Henry Wheaton, of the said district, claimed as author and proprietor the right of a book entitled Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1818. By Henry Wheaton, Counsellor at Law. Volume III. And the said Henry Wheaton, before publication of the said book in this count mentioned, to wit, on the day and year last aforesaid, at the district aforesaid, did deposit a printed copy of the said title thereof in the clerk's office of the district court for the district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled an act for the encouragement of learning,

by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, passed on the 31st day of May, 1790. And the said clerk did thereupon then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned; and the said Henry did further then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, in the page immediately following the title of the said book. And that afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at the district aforesaid, a certain discourse was had and moved by and between the said plaintiffs and the said defendants, wherein a question arose whether the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks; and whether said Wheaton as author, or any other person as proprietor, of the same book, did within six months of the publishing thereof deliver, or cause to be delivered, to the Secretary of State, a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the said act of the Congress of the United States, passed on the 31st day of May, 1790, in which said discourse the said plaintiff then and there averred the affirmative of the said question to be true; and the said defendants then and there averred the contrary, and that the negative thereof was true. Whereupon the said defendants, in consideration that at their special instance and request the said plaintiffs had then and there undertaken, and did undertake and faithfully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there on their part undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of said question was true.

And the said plaintiffs in fact say, that the said affirmative of said question was then and there true, that is to say, that the said Wheaton, as author (and proprietor) of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks, and, as author and proprietor of same book, did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid, whereof the said defendant then and there had notice, and

did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks; and whether said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of third and fourth sections of the said act of the Congress of the United States, passed the 31st day of May, 1790, in which said discourse the said plaintiffs then and there averred the affirmative of the said question to be true; and the said defendants then and there averred the contrary, and that the negative thereof was true; whereupon, the said defendants, in consideration that at their special instance and request the said plaintiffs had then and there undertaken, and did undertake, and faithfully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there on their part undertake, and faithfully promise the said plaintiffs, to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of the said question was true. And the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Wheaton, as author of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks, and as author of same book did, within six months after the publication thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the third and fourth sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district last aforesaid; whereof the said defendants then and there had notice, and were thereupon then and there requested to pay, and thereby then and there became liable to pay, the said plaintiffs the said sum of money last mentioned, according to their promises and undertaking in this count mentioned.

And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the 19th day of August, 1818, at the eastern district of Pennsylvania, to wit, at the southern district of New York, Henry Wheaton, of the said district, claimed as author and proprietor the right of a book entitled Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1818. By Henry Wheaton, Counsellor at Law. Volume III. And the said Henry Wheaton, before publication of the said book in this count mentioned, to wit, on the day and year last aforesaid, at the district aforesaid, did deposit a printed copy of the said title thereof in the clerk's office of the district court for the district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled an act for the encouragement of learning,

by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, passed on the 31st day of May, 1790. And the said clerk did thereupon then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned; and the said Henry did further then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, in the page immediately following the title of the said book. And that afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at the district aforesaid, a certain discourse was had and moved by and between the said plaintiffs and the said defendants, wherein a question arose whether the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks; and whether said Wheaton as author, or any other person as proprietor, of the same book, did within six months of the publishing thereof deliver, or cause to be delivered, to the Secretary of State, a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the said act of the Congress of the United States, passed on the 31st day of May, 1790, in which said discourse the said plaintiff then and there averred the affirmative of the said question to be true; and the said defendants then and there averred the contrary, and that the negative thereof was true. Whereupon the said defendants, in consideration that at their special instance and request the said plaintiffs had then and there undertaken, and did undertake and faithfully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there on their part undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of said question was true.

And the said plaintiffs in fact say, that the said affirmative of said question was then and there true, that is to say, that the said Wheaton, as author (and proprietor) of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks, and, as author and proprietor of same book, did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid, whereof the said defendant then and there had notice, and

were thereupon then and there requested to pay, and thereby then and there became liable to pay, the said plaintiffs the said sum of money last mentioned, according to their promise and undertaking in this count mentioned.

4. And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the twenty-sixth day of August, 1819, at the eastern district of Pennsylvania, to wit, at the southern district of New York, Henry Wheaton, of the said district, claimed as author and proprietor the right of a book, entitled Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1819, by Henry Wheaton, Counsellor at Law, Volume IV. And the said Henry, before the publication of the said book in this count mentioned, to wit, on the day and year aforesaid, at the district aforesaid, did deposit a printed copy of the said title thereof in the clerk's office of the district court of the United States for the southern district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned, passed on the 31st day of May, 1790; and the said clerk did thereupon then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned. And the said Henry did further then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information, by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, in the page immediately following the title of said book. And afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at the district aforesaid, a certain discourse was had and moved by and between the said plaintiffs and the said defendants, wherein a question arose, whether the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks, and whether said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State, a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the said act of the Congress of the said United States, passed the 31st day of May, 1790. In which said discourse the said plaintiffs then and there averred the affirmative of the said question to be true; and the said defendant then and there averred the contrary, and that the negative thereof was true. Whereupon the said defendants, in consideration that at their special instance and request the said plaintiffs had then and their undertaken, and did under-

take and faithfully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there on their part undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of the question was true. And the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Wheaton, as author and proprietor of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks, and as author and proprietor of said book did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and fourth sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid, whereof the said defendants then and there had notice, and thereby then and there became liable to pay the said plaintiffs the said sum of money last mentioned, according to their promise and undertaking in this count mentioned.

5. And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the 11th day of July, 1820, at the eastern district of Pennsylvania, to wit, at the southern district of New York, Henry Wheaton, of the said district, claimed as author and proprietor the right of a book, entitled Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1830, by Henry Wheaton, Counsellor at Law, Volume V.; and the said Henry, before publication of the said book in this count mentioned, to wit, on the day and year aforesaid, in the district aforesaid, did deposit a printed copy of the said title thereof in the clerk's office of the district court for the southern district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, passed on the 31st day of May, 1790; and the said clerk did thereupon then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned; and the said Henry did further then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information, by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, in the page immediately following the title of the said book. And afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at the district aforesaid, a certain discourse was had and moved by and between the said plaintiff

and the said defendant, wherein a question arose, whether the said Wheaton as author, or any other person as proprietor, of the said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published, in one or more of the newspapers printed in the United States, for four weeks, and whether the said Henry Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State, a copy of the same, to be preserved in his office, according to the provisions of third and fourth sections of the said act of the Congress of the United States, passed the 31st day of May, 1790; in which said discourse the said plaintiffs then and there averred the affirmative of the said question to be true, and the said defendants then and there averred the contrary, and that the negative thereof was true. Whereupon the said defendants, in consideration that, at *the* special instance and request, the said plaintiffs had then and there undertaken, and did undertake and faithfully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there on their part undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of the said question was true. And the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Wheaton, as author and proprietor of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks; and, as author and proprietor of same book, did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid; whereof the said defendants then and there had notice, and were thereupon then and there requested to pay, and thereby became liable to pay, the said plaintiffs the said sums of money last mentioned, according to their promise and undertaking in this count mentioned.

6. And also for that whereas, heretofore, before and at the time of making the promise and undertaking of the said defendants in this court mentioned, to wit, on the 16th day of July, 1821, at the eastern district of Pennsylvania, to wit, at the southern district of New York, Henry Wheaton, of the said district, claims as author the right of a book, entitled Reports of cases argued and adjudged in the Supreme Court of the United States, February term, 1821, by Henry Wheaton, counsellor at law, volume VI.; and the said Henry, before publication of the said book in this count mentioned, to wit, on the day and year aforesaid, at the district aforesaid, did deposit a printed copy of the said title thereof in the clerk's office of the district court of the United States for the southern district of New York, (where the said Henry then re-

sided,) in conformity to the act of Congress of the United States, entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned, passed on the 31st day of May, 1790; and the said clerk did thereupon, then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned; and the said Henry did further then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information, by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, on the page immediately following the title of the said book. And afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at the district aforesaid, a certain discourse was had *had* and moved, by and between the said plaintiffs and the said defendants, wherein a question arose, whether the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks, and whether said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the third and fourth sections of the said act of the Congress of the United States, passed the 31st day of May, 1790, in which said discourse the said plaintiffs then and there averred the affirmative of the said question to be true, and the said defendants then and there averred the contrary, and that the negative thereof was true. Whereupon the said defendants, in consideration that at their special instance and request the said plaintiffs had there undertaken, and did undertake and faithfully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there, on their part, undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of the said question was true. And the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Wheaton, as author of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks; and as author of the said book did, within six months after the publishing thereof, cause to be delivered to the said Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the third and fourth sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid; wh reof the said defen-

dants then and there had notice, and were thereupon then and there requested to pay, and thereby then and there became liable to pay, the said plaintiffs the said sum of money last mentioned, according to their promise and undertaking in this count mentioned.

7. And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, the twentieth day of July, 1822, at the southern district of New York, Henry Wheaton, of the said district, claimed as (author) the right of a book, entitled Reports of cases argued and adjudged in the Supreme Court of the United States, February term, 1822, by Henry Wheaton, counsellor at law, volume VII.; and the said Henry, before publication of the said book in this count mentioned, to wit, on the day and year aforesaid, at the district aforesaid, did deposit a printed copy of the said title thereof in the clerk's office of the district court of the United States for the southern district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned, passed on the thirty-first day of May, 1790; and the said clerk did thereupon, then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned; and the said Henry did further, then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information, by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, on the page immediately following the title of the said book. And afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at the district aforesaid, a certain discourse was had and moved, by and between the said plaintiffs and the said defendants, wherein a question arose, whether the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks, and whether the said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the third and fourth sections of the said act of Congress of the United States, passed the 31st day of May, 1790; in which said discourse the said plaintiffs then and there averred the affirmative of the said question to be true, and the said defendant then and there averred the contrary, and that the negative thereof was true; whereupon the said defendants, in consideration that at their special instance and request the said plaintiffs had then and there undertaken, and did undertake and solemnly promise the said defen-

dants to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there, on their part, undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of the said question was true. And the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Wheaton, as author of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks; and, as author of same book did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the third and fourth sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid, whereof the said defendants then and there had notice, and were thereupon then and there requested to pay, and thereby then and there became liable to pay, the said plaintiffs the said sum of money last mentioned, according to their promise and undertaking in this count mentioned.

8. And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the 22d day of October, 1823, at the southern district of New York, Henry Wheaton, of the said district, claimed as author the right of a book, entitled Reports of Cases argued and adjudged in the Supreme Court of the United States, February term, 1823, by Henry Wheaton, Counsellor at Law, volume VIII. And the said Henry, before publication of the said book in this count mentioned, to wit, on the day and year aforesaid, at the district aforesaid, did deposite a printed copy of the said title thereof in the clerk's office of the district court for the district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, passed on the 31st day of May, 1790; and the said clerk did thereupon, then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned; and the said Henry did further, then and there, in conformity to the act of Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information, by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, in the page immediately following the title of the said book. And afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at the district aforesaid, a certain discourse was had and moved, by and between the said plaintiffs and the said defendants, wherein a question arose, whe-

ther the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks, and whether said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver or cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the said act of Congress of the United States, passed the 31st day of May, 1790. In which said discourse the said plaintiffs then and there averred the affirmative of the said question to be true, and the said defendant then and there averred the contrary, and that the negative thereof was true. Whereupon, the said defendants, in consideration that at their special instance and request the said plaintiffs had then and there undertaken, and did undertake and faithfully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there, on their part, undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if the said affirmative of the said question was true.

And the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Wheaton, as author of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper, printed in the United States, for four weeks, and, as author of same book, did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the act of the Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid, whereof the said defendants then and there had notice, and were thereupon then and there requested to pay, and thereupon then and there became liable to pay, the said plaintiffs the said sum of money last mentioned, according to their promise and undertaking in this count mentioned.

9. And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the twenty-first day of September, 1824, at the southern district of New York, Henry Wheaton, of the said district, claimed as author the right of a book, entitled Reports of Cases argued and adjudged in the Supreme Court of the United States, February term, 1824, by Henry Wheaton, Counsellor at Law, Volume IX; and the said Henry, before publication of the said book in this count mentioned, to wit, on the day and year aforesaid, at the district aforesaid, did deposite a printed copy of the said title thereof in the clerk's office of the district court of the United States for the southern district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled an

act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned, passed on the thirty-first day of May, 1790; and the said clerk did thereupon, then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned; and the said Henry did further, then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information, by causing a copy of the said record to be inserted, and the same was, then and there, inserted accordingly, at full length, in the page immediately following the title of the said book. And afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at the district aforesaid, a certain discourse was had and moved, by and between the said plaintiffs and the said defendants, wherein a question arose whether the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers, printed in the United States, for four weeks, and whether the said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the said act of the Congress of the United States, passed the 31st day of May, 1790; in which said discourse the said plaintiffs then and there averred the affirmative of the said question to be true, and the said defendants then and there averred the contrary, and that the negative thereof was true; whereupon the said defendants, in consideration that at their special instance and request the said plaintiffs had then and there undertaken, and did undertake and faithfully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did then and there, on their part, undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of the said question was true; and the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Wheaton, as author of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks, and as author of same book did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the third and fourth sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid, whereof the said defendants then and there had

notice, and were thereupon then and there requested to pay, and thereby then and there became liable to pay the said plaintiffs the said sum of money last mentioned, according to their promise and undertaking in this count mentioned.

10. And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the twenty-first day of June, A. D. 1825, at the southern district of New York, Henry Wheaton, of the said district, claimed, as author, the right of a book entitled "Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1825. By Henry Wheaton, Counsellor at Law. Volume X." And the said Henry, before publication of the said book in this count mentioned, to wit, on the day and year aforesaid, in the district aforesaid, did deposit a printed copy of the said title thereof in the clerk's office of the district court of the United States, for the southern district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled an act for the encouragement of learning by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned, passed on the 31st day of May, 1790; and the said clerk did thereupon, then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned. And the said Henry did further, then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information, by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, in the page immediately following the title of the said book.

And afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, in the district aforesaid, a certain discourse was had and moved by and between the said plaintiffs and the said defendants, wherein a question arose, whether the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks; and whether said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or caused to be delivered, to the Secretary of State, a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of said act of the Congress of the United States, passed on the 31st day of May, 1790. In which said discourse, the said plaintiffs then and there averred the affirmative of the said question to be true, and the said defendant averred the contrary, and that the negative thereof was true. Whereupon the said defendants, in consideration that, at their special instance and request, the said plaintiffs had then and there undertaken, and did undertake and faith-

fully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did, then and there, on their part, undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of the said question was true.

And the said plaintiffs in fact say, that the said affirmative thereof was then and there true, that is to say, that the said Wheaton, as author of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks; and, as author of same book, did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid, whereof the said defendants then and there had notice, and were then and there requested to pay, and thereby then and there became liable to pay, the said plaintiffs the said sum of money last mentioned, according to their promise and undertaking in this count mentioned.

11. And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the twentieth day of July, 1826, at the southern district of New York, Henry Wheaton, of the said district, claimed, as author, the right of a book entitled Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1826, by Henry Wheaton, Counsellor at Law, volume XI. And the said Henry, before publication of the said book in this count mentioned, to wit, on the day and year aforesaid, at the district aforesaid, did deposit a printed copy of the said title thereof in the clerk's office of the district court of the United States for the southern district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned, passed on the 31st day of May, 1790; and the said clerk did thereupon, then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned. And the said Henry did further, then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the 30th day of April, 1802, give information, by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, in the page immediately following the title of the said book.

And afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at

the district aforesaid, a certain discourse was had and moved by and between the said plaintiffs and the said defendants, wherein a question arose, whether the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks; and whether said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the third and fourth sections of the said act of the Congress of the United States, passed the 31st day of May, 1790, in which said discourse the said plaintiffs then and there averred the affirmative of the said question to be true, and the said defendants then and there averred the contrary, and that the negative thereof was true. Whereupon the said defendants, in consideration that, at their special instance and request, the said plaintiffs had then and there undertaken, and did undertake and faithfully promise the said defendants, to pay them two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if said negative of the said question was true, did, then and there, on their part, undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if said affirmative of the said question was true.

And the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Wheaton, as author of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks; and, as author of the same book, did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the act of Congress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid, whereof the said defendants then and there had notice, and were thereupon then and there requested to pay, and thereby then and there became liable to pay, the said plaintiffs the said sum of money last mentioned, according to their promise and undertaking in this count mentioned.

12. And also for that whereas, heretofore, before and at the time of the making of the promise and undertaking of the said defendants in this count mentioned, to wit, on the twenty-fifth day of June, 1827, at district of New York, Henry Wheaton, of said district, claimed as author the right of a book, entitled Reports of Cases argued and adjudged in the Supreme Court of the United States, February term, 1827. By Henry Wheaton, Counsellor at Law. Volume 12. And the said Henry, before publication of the said book in this count mentioned, to wit, on the day and year aforesaid, at the district aforesaid, did deposit a printed copy of the said title thereof in the clerk's office of the

district court of the United States for the southern district of New York, (where the said Henry then resided,) in conformity to the act of Congress of the United States, entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies during the times therein mentioned, passed on the 31st day of May, 1790; and the said clerk did thereupon then and there, as by the said act of Congress directed and required, forthwith record the same in a book kept by him for that purpose, the date of which record is the same day and year first in this count mentioned; and the said Henry did further then and there, in conformity to the act of the Congress of the United States in that behalf provided, passed on the thirtieth day of April, 1802, give information, by causing a copy of the said record to be inserted, and the same was then and there inserted accordingly, at full length, in the page immediately following the title of the said book; and afterwards, and before the making of the promise and undertaking in this count mentioned, to wit, the day and year aforesaid, at the district aforesaid, a certain discourse was had and moved by and between the said plaintiffs and the said defendants, when a question arose whether the said Wheaton as author, or any other person as proprietor, of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in one or more of the newspapers printed in the United States for four weeks; and whether said Wheaton as author, or any other person as proprietor, of same book, did, within six months after the publishing thereof, deliver, or cause to be delivered, to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the said act of Congress of the United States, passed the 31st day of May, 1790. In which said discourse the said plaintiffs then and there averred the affirmative of the said question to be true; and the said defendants then and there averred the contrary, and that the negative thereof was true. Whereupon the said defendants, in consideration that at their special instance and request the said plaintiffs had then and there undertaken, and did undertake and faithfully promise, to pay the said defendants two thousand and one dollars, lawful money of the United States, whenever thereunto afterwards requested, if the said negative of said question was true, did then and there on their part undertake and faithfully promise the said plaintiffs to pay them two thousand and one dollars, like lawful money, whenever thereunto afterwards requested, if the said affirmative of the said question was true; and the said plaintiffs in fact say, that the said affirmative of the said question was then and there true, that is to say, that the said Wheaton, as author of said book in this count mentioned, did, within two months from the date of the said record, cause a copy thereof to be published in a newspaper printed in the United States for four weeks, and, as author of same book, did, within six months after the publishing thereof, cause to be delivered to the Secretary of State a copy of the same, to be preserved in his office, according to the provisions of the 3d and 4th sections of the act of Con-

gress last above mentioned, to wit, the day and year last aforesaid, at the district aforesaid, whereof the said defendants then and there had notice, and were thereupon then and there requested to pay, and thereby then and there became liable to pay, the said plaintiffs the said sum of money last mentioned, according to their promise and undertaking in this count mentioned.

Nevertheless the said defendants, not regarding their said several promises and undertakings, but contriving and fraudulently intending, craftily and subtly, to deceive and defraud the said plaintiffs in this behalf, have not as yet paid the said several sums of money, or any or either of them, or any part thereof, to the said plaintiffs, (although often requested so to do.) But the said defendants to pay them the same have hitherto wholly neglected and refused, and still do neglect and refuse, to the damage of the said plaintiffs fifty thousand dollars; and therefore they bring their suit, &c.

And the said Richard Peters and John Grigg, by Joseph R. Ingersoll, their attorney, come and defend the force and injury, when, &c., and saith that the said Richard and John did not assume upon themselves in manner and form as the said Henry and Robert above have complained against them, and of this they put themselves upon the country, and the said Henry and Robert doth the like, &c.

Therefore, let a jury thereupon come before the judges aforesaid, at Philadelphia aforesaid, on the eleventh day of October next, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c.; the same day is then and there given to the parties aforesaid.

On which said eleventh day of October, A. D. 1834, come the parties aforesaid, by their attorneys aforesaid, and further day is given to the parties aforesaid until the eleventh day of April next, then and there, &c. Therefore, as before, let a jury thereupon come before the said judges at Philadelphia aforesaid, on the said eleventh day of April, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c.; the same day is then and there given to the parties aforesaid, then and there, &c. On which said eleventh day of April, A. D. 1835, come the parties aforesaid, by their attorneys aforesaid, and further day is given to the parties aforesaid until the 12th day of October next. Therefore, as before, let a jury come thereupon before the said judges on the said 12th day of October, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c.; the same day is there given to the parties aforesaid, then and there, &c. On which said 12th day of October, A. D. 1835, come the parties aforesaid, by their attorneys aforesaid, and further day is given to the parties aforesaid until the eleventh day of April next. Therefore, as before, let a jury thereupon come before the said judges on the said eleventh day of April, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c.; the same day is then and there given to the parties aforesaid, &c. On which eleventh day of April, A. D. 1836, come the parties aforesaid, by their attorneys aforesaid, and further day is given to the parties aforesaid until the eleventh day of October next.

Therefore, as before, let a jury come thereupon before the said judges on the said eleventh day of October, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c.; the same day is there given to the parties aforesaid, then and there, &c. On which said eleventh day of October, A. D. 1836, come the parties aforesaid, by their attorneys aforesaid, and further day is given to the parties aforesaid until the eleventh day of April next. Therefore, as before, let a jury thereupon come before the said judges on the said eleventh day of April, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c.; the same day is there given to the parties aforesaid, then and there, &c. On which said eleventh day of April, A. D. 1837, come the parties aforesaid by their attorneys aforesaid, and further day is given to the parties aforesaid until the eleventh day of October next. Therefore, as before, let a jury come thereupon before the said judges on the said eleventh day of October, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c.; the same day is there given to the parties aforesaid, then and there, &c. On which said eleventh day of October, A. D. 1837, come the parties aforesaid, by their attorneys aforesaid, and further day is given to the parties aforesaid until the eleventh day of April next.

Therefore, as before, let a jury come thereupon before the said judges on the said eleventh day of April, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c. The same day is there given to the parties aforesaid, then and there, &c.

On which said eleventh day of April come the parties aforesaid, by their attorneys aforesaid.

Afterwards, to wit, at a session of the same court, holden at Philadelphia aforesaid, before the judges aforesaid, on the 5th day of May, A. D. 1838, come the parties aforesaid, by their attornies aforesaid, and the jurors of the jury aforesaid being called, likewise come, to wit: Thomas Cave, Isaac A. Hayes, Lewis Ryan, Stevenson Smith, Joshua A. Pearson, David Dillinger, David Boyd, John M. Barclay, Geo. W. Page, Jesse M. Christopher, W. B. Mott, and Thomas Morris, who are duly impannelled, returned, elected, tried, and sworn, or affirmed to speak the truth of the matter within contained.

And upon the trial of the issue aforesaid certain evidence was given, as per schedule annexed.

And now, to wit, on the eleventh day of May, A. D. 1838, the jurors aforesaid, on their oaths and affirmations aforesaid, respectively, do say, that they find for the plaintiffs on all the counts.

Whereupon, the said Henry Wheaton and Robert Donaldson, by their attorney, pray judgment of and upon the said verdict aforesaid; the said Richard Peters and John Grigg, by their attorney aforesaid, say that the court here ought not to render judgment of and upon the said verdict, and pray that judgment of and upon the said verdict may be stayed—

1. Because the jury have given a verdict for the plaintiff substantially on all the issues without any evidence whatever to justify or sustain it

in relation to some of the volumes of Wheaton's Reports, viz., the 2d and 9th, respecting which no proof was given, either of publication or deposite, by the proprietor, or any other person in the office of the Secretary of State, or delivery to that officer, according to the provisions of the 3d and 4th sections of the act of Congress of the 31st day of May, 1790.

2. Because the verdict is, at first blush, oppressive and unjust, and contrary to the whole evidence given in the cause.

3. Because the learned judge who charged the jury declined instructing them upon points material to the justice of the case, viz:

1. That no inferences calculated to bear upon the facts in issue could lawfully be drawn from the facts admitted by the issue, and not proved in evidence.

2. That no presumptions could be drawn by the jury of the facts of publication or deposit from any evidence in the cause, such evidence not constituting just ground for inference of those facts.

3. That no presumptions of law would arise from the evidence given, or any absence of evidence, favorably to plaintiffs.

4. Because the court, after stating in the charge that they were divided in opinion upon questions arising in the cause, and duly proposed for decision, refused to state the points, and certify them to the Supreme Court, although requested to do so by counsel.

5. Because material points of law, which are indispensable to the true decision and determination of the cause, remain undecided, although the points were proposed, as stated in reason 3, for the determination of the court.

6. Because the court instructed the jury that a publication for less than the space of four weeks was sufficient compliance with the requisitions stated in the mandate of the Supreme Court.

7. Because the book of an author delivered to the Secretary of State, to be preserved in his office, remains, in a qualified sense, the property of the author, and cannot in any way be disposed of by the Secretary of State, or any officer of the Department, except for mere purposes of preservation.

8. Because negligence or omission of duty in the preservation of a book delivered by an author for preservation, would be an offence in the Secretary of State, and, as such, would render him amenable to impeachment.

9. Because the court instructed the jury that the law was not such as it is stated to be in the foregoing 7th and 8th reasons.

10. Because the court charged, that a publication once a week would be sufficient.

11. Because there is no evidence in the cause to justify the verdict finding that the first volume of Wheaton's reports was published according to law.

12. Because there is no evidence to justify the verdict finding that the 3d, 4th, 5th, 6th, 7th, 8th, 10th, 11th, and 12th volumes of Wheaton's Reports were published according to law.

13. Because there is no evidence in the cause to justify the verdict that a copy of any volume of Wheaton's Reports, two months after the date of the recording thereof in the clerk's office of the district court, was delivered to the Secretary of State, to be preserved in his office, according to the provisions of the law and of the mandate of the Supreme Court.

14. Because there is no evidence that all the volumes of Wheaton's Reports were delivered to the Secretary of State, to be preserved in his office, according to the provisions of the law and of the mandate of the Supreme Court.

15. Because there was no proof of the time of recording any one volume in the clerk's office, from which to compute the time of the publication. And there was, before the trial closed, evidence offered to show that the advertisement on the back of the title page of the first volume was not at variance with the fact, and it is now susceptible of clear and satisfactory proof that such advertisement is at variance with the records.

16. Because one or more of the publications produced by the plaintiffs exceeded, by twelve months and more, the time after the record in the clerk's office, as produced by them in the printed volumes, and exhibited to the jury, and relied on by them.

17. Because, as soon as was possible, request was made by counsel that the court should certify a division to the Supreme Court.

18. Because a verdict has been given by a jury uninstructed and uninformed as to principles and rules, which were indispensably necessary to the guidance of their judgments.

J. R. INGERSOLL, *for defts.*

May 12, 1838

And thereupon, afterwards, to wit, on the nineteenth day of February, A. D. 1840, it is ordered, that the verdict on the issue directed by the Supreme Court be set aside; that the evidence of the witnesses examined at the trial of the issue be reduced to writing by the counsel of both parties, if they can agree upon it, and that the same be filed as evidence in the cause. If counsel cannot make an agreed statement of such evidence, then either party be allowed to take the deposition of witnesses before an examiner, on 10 days' notice to the attorney of the other party, at any time before the 20th day of March next, on which day the examination of witnesses is to be closed, and their depositions to be filed with the clerk, to be read as evidence in the cause. A new trial of the issue is awarded, to be tried on the second day of the next term, on the written evidence, exhibits, papers, or books, referred to by the witnesses, and the cause be set down for a final hearing on the equity list.

Afterwards, to wit, on the 18th day of March, 1840, ordered by the court that the time for taking evidence be extended to the first Monday of April next.

1841, September 25. This cause came on to be heard on bill, an-

swer, and replication, and the testimony, oral and written, and documents and writings in evidence. Whereupon, it is decreed, that the complainants' bill be dismissed with costs.

And the said complainants appeal to the Supreme Court of the United States from said decree, and file specification and assignment of causes of the appeal—

1. The court below erred in setting aside the verdict upon the issues found in favor of the complainant.
2. The court below erred in not making a decree, conformably to the prayer of the complainants' bill.
3. The court below erred in dismissing the complainants' bill.
4. The court below erred in not entering a decree for the complainants with costs.
5. The decree and proceedings appealed from are, in other respects, uncertain, erroneous and defective, informal and insufficient.

UNITED STATES,

Eastern district of Pennsylvania:

I certify the foregoing to be a true and faithful copy of the record and proceedings of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain suit in equity therein lately depending, between Henry Wheaton and Robert Donaldson, citizens of the State of New York, complainants, and Richard Peters and John Grigg, citizens of the State of Pennsylvania, defendants.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said court, at Philadelphia, this fourteenth [L. S.] day of November, A. D. 1846, and in the seventy-first year of the independence of the said United States.

FRA. HOPKINSON, *Cl'k circuit court.*

Schedule within referred to.

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

HENRY WHEATON AND ROBERT DONALDSON, citizens of the State of New York, vs. RICHARD PETERS AND JOHN GRIGG, citizens of the State of Pennsylvania. } Feigned issue case of April session, 1834. No. 15.

The President of the United States to Levett Harris, Isaac Cox Barnet, Humphrey Atherton, and Edward Waln, esquires, commissioners nominated by and on behalf of the defendants in the [L. S.] above cause, and Joseph E. G. M. De la Grange, esq., commissioner nominated by and on behalf of the plaintiffs in the above cause.

Know ye, that, in confidence of your prudence and integrity, we have given unto you, and, by these presents, do give unto you, or to any two or

more of you, not being of the same nomination, full power and authority, in pursuance of a rule lately made in the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, in a certain action on the case therein depending, wherein the said Henry Wheaton and Robert Donaldson are plaintiffs, and the said Richard Peters and John Grigg are defendants, to call before you, at a certain day and place by you for that purpose to be appointed, all and every person and persons who may be named to you by the said defendants as witnesses in the said action, then and there to examine them, on their respective oaths and affirmations, on certain interrogatories hereunto annexed, touching the premises, and to reduce their testimony to writing; and, when you shall have so done, you are to send the same to the said circuit court, closed up and under your seal, plainly and distinctly set, together with this writ.

Witness the honorable John Marshall, chief justice of the Supreme Court of the United States, at Philadelphia, this second day of December, A. D. 1834, and in the fifty-ninth year of the independence of the said United States.

FRA. HOPKINSON, *Cl'k circuit court.*

WHEATON AND DONALDSON,
vs.
PETERS AND GRIGG.

Interrogatories for witnesses who may be produced and examined under a commission to Paris.

1. Do you know the parties in this case, or either and which of them; if aye, how long have you known them, or either of them?

2. At what time did you become chief clerk of the Department of State of the United States, and how long did you continue chief clerk in the said department? Were you, before you became chief clerk in the said department, employed in the same in any other capacity, and how were you so employed?

3. If you were employed in the Department of State before you became chief clerk, had you any knowledge of the deposit of books in the said department for copy right; was it a part of your duty to know of the deposit of books for copy right, or in any manner to attend to the same in the capacity you acted in before you became chief clerk in the said department? If aye, state your duties with the same particularly.

4. Have you any knowledge of, and, if any, what do you know of a volume of the Reports of Mr. Wheaton having been in the Department of State prior to the time of your having been chief clerk of the Department of State? How did you obtain the said knowledge? And, if you know the same, state how and in what manner the said volume came or was received in the said department.

5. Have you any knowledge of the manner in which books for the library of the Department of State were purchased or procured? By whose order, if you have such knowledge, were the same purchased or procured; who paid for the same; who kept the accounts of such pur-

chases; what was done with the books so obtained, so as to distinguish them from books belonging to other departments of the Government, or to other persons? What was written in or on said books for the said purposes; and, if any thing was written, by whom, or by whose order was the same written?

6. In the Library of the Department of State there is the first volume of the Reports of Mr. Wheaton, and on the inside of the cover of the said book there is written, said to be in your handwriting, "U. S. Department of State." And, on the upper corner of the same page, there is marked, in pencil figures, "700." When and for what purpose did you put the said writing in the said book? Do you know who put the figures "700," and for what purpose the same were put, in the said corner? Do you know when, and of whom, this said first volume was obtained or procured? And, if aye, state your knowledge thereof.

7. On the outside cover of the first volume of Mr. Wheaton's Reports, in the library of the Department of State, on the right hand corner of the same, at the top, there is written "D. State," in ink. Do you know by whom the same was written, and for what purpose, and when the same was written? If aye, state your knowledge.

8. Were you examined, on the 30th April, 1832, as a witness in a case depending in the circuit court of Pennsylvania, between the same parties, as in the case in which you are now examined? Did you, at the time of the said examination, or before the same, examine particularly the volumes of the Reports of Mr. Wheaton, then in the Library of the Department of State, and, particularly, did you examine the first volume of the set of the said Reports then in the said library; did you examine the writing in the said volumes, and did you, or did you not, then ascertain the purpose for which the said writing was made? Please to state that purpose.

9. If, at that time you examined the said first volume of the Reports of Mr. Wheaton, when or before you were examined as a witness, as stated in the foregoing interrogatory, you saw the pencil figure on the page in which the words stated in the sixth interrogatory are written, for what purpose did you then believe, and for what purpose do you now believe, the same was written?

10. Did you not, in your deposition aforesaid, state that there had always been, from the time of the publication thereof, a complete set or sets of the Reports of Mr. Wheaton? If aye, you are requested to state how and in what manner the fact so stated is known to you. When did you first see a volume or volumes in the said department; where and in what part of the department did you first see the same; and if you saw the said first volume, and knew for what purpose it was in said department, state the same.

11. For what purpose, and in what manner, was your attention first called to this being a complete set or sets of the Reports of Mr. Wheaton in the Department of State? And when was your attention first called to the same? If you made any entry in the said volume of the said Re-

ports, what entry did you make, and for what purpose was the same made?

12. Do you know any thing further that may be material to the defendants? If so, state the same fully and at large, as if you were more particularly interrogated in relation thereto.

J. R. INGERSOLL,
For the defendants.

Oct. 20, 1834.

Commissioners on the part of the defendants at Paris—Levett Harris, Isaac Cox Barnett, Humphrey Atherton, Edward Waln, or any one or more of them.

Cross interrogatories, on behalf of plaintiff, to witnesses produced and examined for defendants under a commission to Paris.

1. Did you not succeed John Graham, deceased, as chief clerk of the Department of State? Were you not, before you thus became chief clerk, employed in said department in arranging and publishing the laws, and keeping the rolls and archives, or in the performance of some, and what other, duty or duties? Did not Mr. Adams arrive in Washington on the 20th, or on some and what day of the month in September, 1817, and immediately assume the duties of the office of Secretary of State? And did you not become chief clerk under him on the 22d of the same month, or how soon afterwards, and when?

2. On the subject of the deposit of books for copy-right, had you not, before you became chief clerk, the same knowledge, generally, that you had after you became chief clerk of said Department? Was there not great irregularity and want of system in regard to said books, both before and after your becoming chief clerk? Have not books deposited for copy-right, and books purchased by or for the Department, been kept undistinguishably together as parts of one and the same library; and have they not been indiscriminately lent out at different times to various persons, including members of the bar, for reference, and for other purposes?

3. With respect to the deposit for copy-right of books at the Patent Office, or in the Department of State, can you state, or have you any impression, recollection, or belief, whether there was any settled or uniform practice observed or pursued as to inscribing the fact, and the date of their deposit, in the blank leaves or on the binding of such books; or as to entering the fact and date of their deposit in any list or register belonging to the Department; or as to giving receipts or certificates thereof to persons depositing the same? If aye, when did such practice begin to be observed and pursued; and what had been previously the practice in relation thereto? During the years 1816 and 1817, and for several years afterwards, were not all these matters very much neglected? From what you have seen and observed of the practice and of the irregularities of the said Department on this head, during the ten years before Mr. Clay became Secretary of State, is it not your belief that books have been deposited for copy-right, during that period, without the fact of

such deposit being certified to the person depositing them, or entered or inscribed in the book deposited, or in any list or register in the Department?

4. When books were purchased for the Department of State, during 1816 and 1817, and subsequently to those years, were they not paid for by the agent for paying the contingent expenses of said Department? Was not Stephen Pleasanton such agent in 1816, and previously; and did he not continue to be such agent until he was succeeded by Moses Lowry, in the early part of March, 1817; and did not said Moses succeed said Stephen, and continue for many years afterwards in said agency? Were not accounts or vouchers of all their payments rendered, at stated intervals, to the Treasury Department; and are not the same, as you know or believe, preserved in the said Treasury Department, together with the abstracts or statements of such agents accompanying the same, and referring thereto?

5. According to your recollection, has there not always been in the Department of State one or more complete sets of Wheaton's Reports from the time of their publication? As to any first volume of said set or sets of Reports, if the same had been purchased for the Department, was not the course of business in the Department such that the evidence of its purchase would be found in the seller's bill and receipt, or voucher of its purchase, and of the payment of its price, returned by the agent for paying such expenses, and filed with his account or abstract rendered to the Treasury Department?

6. In your answers to the 9th interrogatory in chief, if you have stated any impression derived from the statement contained in that interrogatory, that the figures 700 are written in pencil on the blank page of the book, you are requested to state whether such impression on your part was or was not founded on the supposition that the figures in question were the ordinary mark of a publisher or bookseller, directing the retail price of the book; and whether any impression founded thereon would not be entirely removed from your mind if, on examining the expense account, and the particular vouchers and accounts of books purchased for the Department, there appeared to be no evidence of the purchase by or for the Department of the book in question?

7. Annexed is a certified copy of your deposition of 30th April, 1832, referred to in the interrogatories in chief; please to peruse the same, and to state whether you doubt the correctness of any, and if any, what fact or facts stated therein? And whether, after such perusal, you desire to explain in any and what respect its contents, or the contents of this deposition; and in either case give such explanation fully and in detail. So that your former deposition, and the present one, may, together, contain your full statement and explanation on all the subjects to which they respectively have reference.

8. In the course of the public business of the Department of State, was it not occasionally necessary to refer to Mr. Wheaton's Reports of the decisions of the Supreme Court of the United States; and was there ever, within your recollection, a time when said Reports, or any volume

thereof, were not to be had there? Was it not, as you believe, a matter of course that the Department should be furnished, in some manner, with a complete set of such a work from the time of the publication of each volume? Were not the various decisions on international and constitutional law, contained in those reports, the subject of reference in transacting the business of the Department; and does not the knowledge of this circumstance fortify you in the belief that said Department was always furnished in some manner with a complete set of the said Reports from the time of their publication? Is not your impression, that there was such a complete set of the twelve volumes of Wheaton's Reports in the Department of State, from the time of their publication, as strong as you ordinarily find the impression of such a fact on your mind to be, after such a lapse of time, without the occurrence of particular causes to continue the recollection of it during the interval? Please to answer this interrogatory particularly and in detail, as well as fully and at large.

9. Do you know, or can you state, any other matter or thing material to the plaintiffs? If aye, relate the same as fully as if particularly interrogated thereto.

JOHN CADWALADER, *For self*,
And C. CHAUNCEY, *For plaintiffs*.

Plaintiffs' commissioner at Paris—
JOSEPH E. G. M. DE LA GRANGE, ESQ.

DISTRICT OF COLUMBIA, *ss:*

HENRY WHEATON AND ROBERT DONALDSON, citizens of the State of New York, complainants,
vs.
RICHARD PETERS AND JOHN GRIGG, citizens of the State of Pennsylvania, defendants.

In a cause depending in the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, sitting as a court of chancery, wherein Henry Wheaton and Robert Donaldson are complainants, and Richard Peters and John Grigg are defendants, personally appears, before the mayor of the city of Washington, in the District of Columbia, Daniel Brent, who, being carefully examined, and cautioned, and sworn to testify the whole truth, deposes upon the Holy Evangelists of Almighty God, and saith that the deponent was chief clerk in the Department of State of the United States on the fourth day of November, 1817, and has so continued to be chief clerk ever since; that the affairs and concerns of the Department were at that time, as they have continued to be, intimately and particularly known to him; and that, under the general superintendence and direction of the head of the Department for the time being, the administration of them has devolved upon, and been exercised, by him, the deponent, and others under his immediate direction, in matters not especially requiring the attention of the Secretary himself; that, from deponent's general recollection,

refreshed by reference to original and authentic documents made out at the times, and establishing the facts, eighty copies of the volume of Wheaton's Reports, containing the decisions of the Supreme Court of the United States for February term, 1817, were delivered to the said Department of State on or before the fourth day of November, 1817; that the same number of copies of the subsequent volumes of the said reports, from two to twelve, inclusively, were so delivered on or before the following times respectively: that containing the decisions of February term, 1818, on or before the twenty-fourth day of October, 1818; that of February term, 1819, on or before the twenty-first day of October, 1819; that of February term, 1820, on or before the eighteenth day of August, 1820; that of February term, 1821, on or before the fourteenth day of August, 1821; that of February term, 1822, on or before the nineteenth day of September, 1822; that of February term, 1823, on or before the thirtieth day of December, 1823; that of February term, 1824, on or before the tenth day of November, 1824; that of February term, 1825, on or before the twenty-third day of August, 1825; that of February term, 1826, on or before the tenth day of March, 1827; that of February term, 1827, on or before the twenty-third day of July, 1827. That all of said eighty volumes were received under the acts of Congress giving a salary to the said reporter for preparing and furnishing the said reports; and deponent further saith, that there has always been, according to deponent's recollection, one or more complete sets of said reports, from the time of their publication, in the said Department of State; but that deponent is unable to recollect or state more particularly when the same were first placed in said Department, or for what purpose.

This deponent further states, that there does not appear any evidence in the Department, to his knowledge, that the successive volumes of said reports, or copies of them, were deposited in the Department by the maker or publisher of the same, as they were printed, agreeably to the provisions of the laws of Congress for securing copy-rights to the authors, &c., &c., though the memorandum of similar deposites was kept in the Patent office, a branch of the Department of State, and not at the Department itself, for several of the first years referred to; and this deponent is under a thorough impression and belief that the memorandum of such deposites of books, and the giving of receipts for the same as they were lodged in the Department, were often neglected to be made and given during the whole period referred to; that said sets of Wheaton's Reports are placed in, and constitute a part of, the library of said Department, and that the books of the library are often lent out to persons, including members of the bar, for reference; that the books placed in the Department under the copy-right laws, are also placed in and constitute a part of the same library, and are subject to be lent out in the same manner as the other books of the library.

DANIEL BRENT.

UNITED STATES,
District of Pennsylvania

I certify the foregoing to be a true and faithful copy of the original, filed and now remaining among the records of the circuit court of the United States in and for the district of Pennsylvania, in the third circuit, in my office.

Witness my hand and seal of said circuit court, at Philadelphia, this fourth day of December, A. D. 1834, and in the fifty-ninth year of the independence of the said United States.

[L. S.]

FRAS. HOPKINSON,
Clerk circuit court.

Deposition of witness produced, sworn, and examined, on the third day of February, in the year of our Lord one thousand eight hundred and thirty-five, at the house of H. Atherton, esq., in the city of Paris, in France, by virtue of a commission issuing from the circuit court of the United States for the district of Pennsylvania, to Levitt Harris, Isaac Cox Barnes, Humphrey Atherton, and Edward Waln, esquires, commissioners nominated by and on behalf of the defendants, and Joseph E. G. M. De la Grange, nominated on behalf of the plaintiffs, directed for the examination of a witness, in a certain cause depending in said court, wherein Henry Wheaton and Robert Donaldson are plaintiffs, and Richard Peters and John Grigg are defendants. Daniel Brent, consul, and agent of claims of the United States at Paris, aged 60 years, or thereabouts, being produced, sworn, and examined, on behalf of the defendants, deposeth as follows:

1. To the first interrogatory, on the part of the defendant, he answers as follows: I know the first named plaintiff and defendant in this cause, Henry Wheaton and Richard Peters, and have known them both, particularly Henry Wheaton, many years, but am unable to state the number. I am not, to the best of my recollection, acquainted with the other plaintiff, Robert Donaldson, or John Grigg, the other defendant in this cause, though I am acquainted with persons of the same surname as Donaldson.

To the second interrogatory, on the part of the defendants, he answers as follows: "I was appointed chief clerk, provisionally, of the Department of State, by Mr. Richard Rush, in March, 1817, when he was acting Secretary of that Department, and was confirmed in the appointment by Mr. John Quincy Adams, the Secretary, in the autumn of that year, when he assumed the duties of his office. I held the station till August, 1833, when I was appointed consul and agent of claims of the United States at Paris. At the time of my appointment as chief clerk I was employed in the same Department as an ordinary clerk, to which place I had been appointed by Chief Justice Marshall in the year 1800, as well as I recollect, when he was Secretary of State; and, from the time of my appointment to the subordinate station in question to that of my appointment as chief clerk, I performed the duties of chief clerk whenever that officer, the chief clerk, was sick, and unable,

from that cause, to perform the duties himself, or was absent from the seat of Government.

To the *third* interrogatory, on the part of the defendants, he answers as follows: I had a general knowledge of the deposit of books, from time to time, in the Department of State, under the law or laws of Congress securing copy rights before I became chief clerk; but it was at no period, during that time, my especial duty to attend to this business, except when acting as chief clerk; in which cases, without any precise recollection of facts or circumstances, or of the particular disposition made of the books themselves, I have no doubt, and may venture to say, that I invariably pursued the course followed by the chief clerks, though I cannot always charge my mind with the recollection of what that course was.

To the fourth interrogatory, on the part of the defendants, he answers as follows: As well as I recollect, I ascertained, upon a former occasion of my deposition, in April, 1832, in a cause of the same parties, by recourse to a letter to myself from Mr. Wheaton, requesting me to cause the amount due to him for eighty copies of his reports of the decisions of the Supreme Court of the United States for the February term of 1817, to be forwarded to him at New York, and to the certificate likewise, which was given by the Department of State, perhaps by myself, as chief clerk, to the First Auditor of the Treasury, (that these books were duly received at the Department of State, in order to the of Mr. Wheaton's account for the same,) that the eighty copies referred to, including of course a single volume, were in the Department of State before the 4th of November, 1817, though I have no positive or distinct recollection of their having been there before the month of March of that year, at which time I was appointed.

To the fifth interrogatory, on the part of the defendants, he answers as follows: As well as I recollect, books for the library of the Department of State were purchased or procured by the orders of the Secretary or chief clerk of that Department, and were paid for by the agent of the same, charged with the care and disbursement of its contingent funds, who kept the accounts thereof after they were purchased; the books themselves were placed in the library of the Department, and the words, Department of State, to distinguish them as the property of that Department, were generally either written, or pasted in printed letters, upon the first sheets or inside covers of the books so purchased by the librarian or the chief clerk of the Department, if they happened to come first into his hands; but I cannot pretend to say this was always done.

To the sixth interrogatory, on the part of the defendant, he answers as follows: I have no knowledge or recollection of the facts and circumstances referred to in this interrogatory, or of any of them, and am entirely ignorant of the time when, and the person from whom, the first volume therein mentioned was procured, if it was not included in the eighty copies of the Reports of the Decisions of the Supreme Court of the United States for the February term of 1817.

To the seventh interrogatory, on the part of the defendants, he an-

swers as follows: I have no knowledge or recollection whatever upon the subject of this interrogatory in any of its parts.

To the eighth interrogatory, on the part of the defendants, he answers as follows:- As well as I recollect, I made a general examination of the volumes of Wheaton's Reports, which were in the library of the Department of State, before I was examined in the cause referred to in April, 1832, but do not recollect to have noticed the writing alluded to in the first volume, or to have ascertained, or attempting to ascertain, the purpose for which the said writing was made.

To the ninth interrogatory, on the part of the defendants, he answers as follows: As is already stated, I have no recollection of the words stated in the 6th interrogatory to be written on the inside of the cover of the first volume of Wheaton's Reports, or of the figures stated to be made in pencil on the upper corner of said cover, and am consequently unable to state what were my impressions upon the subject of that writing, and of those figures, at the time of, and before the examination referred to. I suppose, however, if the words in question were written by me in the volume mentioned, they were intended as a memorandum or evidence that the book was the property of the Department of State.

To the tenth interrogatory, on the part of the defendants, he answers as follows: In answer to this interrogatory I have to state, that from my impression of the great utility of this work, which impression I believe to be common to all the persons of the Department, as well as from my general recollection of the subject, with the frequent reference made to the several volumes, pains were taken to keep up one or more sets of it entire in the library, and that it was upon these grounds I stated generally, in the deposition referred to, the fact that, from the commencement of the publication of the Reports by Mr. Wheaton, a complete set or sets of them had always been kept in the Department of State. I have no distinct knowledge or recollection of the other matters contained in this interrogatory.

To the eleventh interrogatory, on the part of the defendants, he answers as follows: I have nothing to say, but to refer to my answer to the 10th interrogatory for my answer to this, except to state, that I have no recollection of having made any entry in either volume of the Reports.

To the twelfth interrogatory, on the part of the defendants, he answers as follows: In answer to this, I know of nothing, except that I do not remember to have ever made or seen any entry or memorandum in the Department of State, indicating that the said volumes, or either of them, were or was deposited therein, to secure the copy-right in the same to the authors and publishers thereof.

DANIEL BRENT.

HUMPHREY ATHERTON,
J. M. DE LA GRANGE,
EDWARD WALN. } *Commissioners.*

Cross interrogatories.

To the first cross interrogatory, on the part of the plaintiff, he answers as follows: I did succeed John Graham as chief clerk of the Department of State, as stated in my deposition to the second interrogatory of the defendant in this cause. Before my appointment as chief clerk, I superintended the proclamation and publication of the laws of the United States, collating the proof sheets of the latter, and furnishing the printers with copy for both; and had the charge of the rolls of the laws; but I do not remember of what other archives I likewise had the special care; in other respects, I was employed in the miscellaneous business of the Department. Mr. Adams arrived at Washington in the autumn of 1817, about the time mentioned in this interrogatory, as well as I recollect, and immediately assumed the duties of Secretary of State, when Mr. Rush's appointment of me as chief clerk was confirmed by him, in a commission to which I cannot now refer by date, but which is of record in the Department.

To the second *cross* interrogatory, on the part of the plaintiff, he answers as follows: I had the same general knowledge before I became chief clerk, as I had after I became such, on the subject of the deposite of books in the Department of State to secure copy-rights.

There certainly was, according to my best recollection, from the period of my first being attached to that Department, till the re-organization of its library in the year 1829, great irregularity and want of system with regard to such books, which were kept, during the first mentioned period, indiscriminately with the other books of the library, when they were not sent to the Patent office, with nothing to distinguish them, generally or particularly, from those other books; and they were occasionally, as well as I recollect, lent out to various persons, though I have no distinct recollection as to whom, in common with the other books of the library.

To the third cross interrogatory, on the part of the plaintiff, he answers as follows: There certainly was no settled or uniform mode pursued during the first period referred to, with regard to the inscribing of the facts and dates of the deposite of books in the Department of State, to secure copy-rights, excepting from a short period after Mr. Adams assumed his official duties in that Department, when a general register of letters and papers, with brief notice of their nature and contents, received from day to day at the Department, was instituted, and commenced by his orders, which was kept up as long as I remained there; though in some instances, comparatively few, as well as I recollect, the chief clerk wrote upon the first sheets or insides of the covers of such books these words, or others to the same effect:

"Received , at the Department of State," and subscribed their names to the same, after inserting the dates; from what I have seen and observed, however, as to the irregularity and want of system prevailing in the Department of State, with regard to copy-right books, from the period of my first connexion with it to that

of the reorganization of its library in the year 1839, by a newly appointed librarian, except so far as the receipt of such books may have been noticed in the register referred to, instituted by Mr. Adams, and kept up as long as I remained in the Department, I am of opinion, that very many books were deposited therein, under the law or laws for securing copy-rights, without having been noticed at all by any entries or minutes in writing, or receipts to the parties depositing them.

To the fourth cross interrogatory, on the part of the plaintiff, he answers as follows:

Books published for the Department of State in the years 1816 and 1817, as well as subsequently to those years, and up, I believe, to the present time, were and are paid for by the agents for paying the contingent expenses of that Department. Stephen Pleasanton was the agent during the year 1816, as well as previously thereto, and he continued to be such till the month of March, in the year 1817, as well as I recollect, when he was appointed 5th Auditor of the Treasury.

He was succeeded by Moses Young, at that time a clerk in the Department of State, who held the station up to the time of his death, some years afterwards. The accounts and vouchers of the said agents for their disbursements were rendered periodically quarterly, I believe, to the Treasury Department, and remained therein, with the abstracts and statements referring thereto.

To the fifth cross interrogatory, on the part of the plaintiff, he answers as follows:

There always was, according to my recollection, as stated in my deposition of April, 1832, referred to in the tenth interrogatory of the defendants, and in my answer to the same, one or more complete set or sets of Wheaton's Reports in the Library of the Department of State, from the times of their publication. If the first volume of these reports had been purchased for that Department, the evidence of such purchase would have been exhibited by the seller's bill and receipt, as a voucher for the agent of that Department, rendered by him to that of the Treasury, towards the adjustment and settlement of the account to which the transaction related, and that voucher would have been filed in the Treasury Department, with the abstract or statement of such account.

To the sixth cross interrogatory, on the part of the plaintiff, he answers as follows:

As an answer to this interrogatory, I refer to my answer to the 9th interrogatory in chief.

To the seventh cross interrogatory, on the part of the plaintiff, he answers as follows:

I have read and considered the deposition referred to in this interrogatory, and have no reason to doubt its correctness, amplified and explained by my answers to the interrogatories in the present suit.

To the 8th cross interrogatory, on the part of the plaintiff, he answers as follows:

It was occasionally necessary, in the course of the public business of the Department of State, and of the other officers of the Government at

Washington, or interesting and needful to private individuals there, to refer to Wheaton's Reports of the decisions of the Supreme Court of the United States; and I do not remember the time, from that of their publication and being in possession of the Department, when the said reports, or any volume of them, was not to be found there. I believe it to have been considered a matter of course that that Department should have been furnished, in some manner, with a complete set of such a work from the time of the publication of the several volumes. Although the head of the Department of State may have occasionally referred to these reports, as was, according to my recollection, the case, for the information which they contained on matters connected with their duties, or the business of the offices, yet my impression that there was always one or more complete set or sets of the reports in that office, is the more strengthened by my general recollection of the references of others than of those of the principals of that Department, or others belonging to it, to these reports. My recollection of the fact, that there was continually such a complete set of all the volumes of Wheaton's Reports in the Department of State from the time of their publication, is quite as strong as I ordinarily find the impressions of such a fact upon my mind, after such a lapse of time, without recurrence to particular circumstances to revive and continue the recollection of it during the interval.

To the 9th cross interrogatory, on the part of the plaintiff, he answers as follows:

I know of no other matter or thing than is already stated in my answer to the foregoing interrogatories on the part of the defendants and plaintiffs in this cause, and in my deposition of the 30th April, 1832, in the suit between the same parties, which is material to the plaintiffs, except the reiteration of my decided opinion that the first volume of Wheaton's Reports of the decisions of the Supreme Court of the United States, or any other book whatever, may have been deposited in the Department of State to secure the copy right, at any time antecedently to the institution of the register of letters and papers received from day to day at that Department, under the orders of Mr. Adams, already referred to, and till the re-organization of the library of the said Department, in the year 1829, as likewise before stated, without the facts being noticed by any memorandum or minute in writing whatever, from any general recollection upon my mind of the want of attention and system of that Department with regard to this matter, and the little importance which appeared to be attached to it there.

Signature of witness, DANIEL BRENT.

HUMPHREY ATHERTON,
J. M. DE LA GRANGE,
EDWARD WALN,
Commissioners.

Deposition of Elijah Paine.

Elijah Paine, of the city of New York, counsellor at law, being duly sworn, deposes and says, that he has been a resident of said city since

the year 1817; and since that time has seen, almost daily while they have been published, the daily newspapers published in said city, called the National Advocate, New York American, and Morning Herald; files of which papers are now by me produced, and known to me to be files of said papers, and are the same files as are referred to in the annexed schedule of the advertisements of Wheaton's Reports copy right.

And this deponent further saith, that he has personally examined said files for the purpose, and has found that the records of the copy right of the respective volumes of said reports was published in said papers, as is set down in the said schedule, made out from said files by this deponent.

And this deponent further saith, that, in the city and State of New York, it is customary to insert advertisements of legal notices and other legal proceedings, and advertisements generally required to be made by law only once in each week, although the paper may be published daily.

E. PAINE.

Sworn before me, this 31st December, 1832.

WILLIAM MILNOR, *Ald'n.*

Advertisement of a copy right of Wheaton's Reports in New York American, published in the city of New York.

1822.	*Vol. seventh.*	1822.
Saturday, July 27.		Friday, August 23.
Tuesday, July 30.		Saturday August 31.
Saturday, August 10.		Saturday, September 7.
Saturday, August 17.		
1823.	*Vol. eighth.*	1823.
Friday, October 24.		Saturday, November 22.
Saturday, November 1.		" " 29.
Saturday, November 8.		" December 6.
" November 15.		" " 13.
1825.	*Vol. tenth.*	1825.
Friday, June 24.		Saturday, July 23.
Saturday, July 2.		" " 30.
" " 9.		" August 6.
" " 16.		" " 13.
1826.	*Vol. eleventh.*	1826.
Saturday, July 22.		Monday, August 14.
Monday, " 31.		" " 21.
" August 7.		" " 28.
1827.	*Vol. twelfth.*	1827.
Wednesday, June 27.		Monday, July 16.
Monday, July 2.		" " 23.
" " 9.		" " 30.

Published in the New York National Advocate.

1818.			*Volume third.*	1818.		
Tuesday,	August	25.		Friday,	September	11.
Wednesday,	"	26.		Saturday,	"	12.
Thursday,	"	27.		Monday	"	14.
Friday,	"	28.		Wednesday,	"	16.
Saturday,	"	29.		Thursday,	"	17.
Thursday,	September	3.		Friday,	"	18.
Friday,	"	4.		Saturday,	"	19.
Saturday,	"	5.		Monday,	"	21.
Monday,	"	7.		Tuesday,	"	22.
Tuesday,	"	8.		Wednesday,	"	23.
Wednesday,	"	9.		Saturday,	"	26.
Thursday,	"	10.				

1819.			*Volume fourth.*	1819.		
Saturday,	August	28.		Wednesday,	September	8.
Monday,	"	30.		Thursday,	"	9.
Tuesday,	"	31.		Friday,	"	10.
Wednesday,	September	1.		Saturday,	"	11.
Thursday,	"	2.		Monday,	"	13.
Friday,	"	3.		Tuesday,	"	14.
Saturday,	"	4.		Wednesday,	"	15.
Monday,	"	6.		Thursday,	"	16.
Tuesday,	"	7.		Friday,	"	17.

1820.			*Volume fifth.*	1820.		
Wednesday,	July	12.		Friday,	August	4.
Thursday,	"	13.		Saturday,	"	5.
Friday,	"	14.		Monday,	"	7.
Saturday,	"	15.		Tuesday,	"	8.
Monday,	"	17.		Wednesday,	"	9.
Tuesday,	"	18.		Thursday,	"	10.
Wednesday,	"	19.		Friday,	"	11.
Thursday,	"	20.		Saturday,	"	12.
Friday,	"	21.		Monday,	"	14.
Saturday,	"	22.		Tuesday,	"	15.
Monday,	"	24.		Wednesday,	"	16.
Tuesday,	"	25.		Thursday,	"	17.
Wednesday,	"	26.		Friday,	"	18.
Thursday,	"	27.		Saturday,	"	19.
Friday,	"	28.		Monday,	"	21.
Saturday,	"	29.		Tuesday,	"	22.
Monday,	"	31.		Wednesday,	"	23.
Tuesday,	August	1.		Thursday, (paper not on file.)		
Wednesday,	"	2.		Friday,	August	25.
Thursday,	"	3.		Saturday,	"	26.

Advertisements published in New York American, published in the city of New York.

Volume sixth.

1821.		1821.		1821.	
Tuesday,	July 17.	Monday,	August 6.	Thursday,	Aug. 23.
Wednesday	" 18,	Tuesday,	" 7.	Friday,	" 24.
Friday,	" 20.	Wednesday,	" 8.	Saturday,	" 25.
Saturday,	" 21.	Thursday,	" 9.	Monday,	" 27.
Tuesday,	" 24	Friday,	" 10.	Tuesday,	" 28.
Wednesday,	" 25.	Saturday,	" 11.	Wednesday,	" 29.
Thursday,	" 26.	Monday,	" 13.	Thursday,	" 30.
Friday,	" 27.	Tuesday,	" 14.	Friday,	" 31.
Saturday,	" 28.	Wednesday,	" 15.	Saturday,	Sept. 1.
Monday,	" 30.	Thursday,	" 16.	Monday,	" 3.
Tuesday,	" 31.	Friday,	" 17.	Tuesday,	" 4.
Wednesday,	Aug. 1.	Saturday,	" 18.	Wednesday,	" 5
Thursday,	" 2.	Monday,	" 20.	Thursday,	Sept. 6.
Friday,	" 3.	Tuesday,	" 21.	July 19 and 23,	lost
Saturday,	" 4.	Wednesday,	" 22.	from file.	

Advertisements published in the Morning Herald, of the city of New York.

VOLUME FIRST.

First deposite of record for continuing the copy-right after the expiration of the first fourteen years, made on the 14th day of May, 1830.

	1830.	1830.	1830.	1830.
Saturday,	May 15	May 26	June 2	June 9
	" 17	" 27	" 3	" 10
	" 20	" 28	" 4	" 11
	" 21	" 29	" 5	" 12
	" 22	" 31	" 7	" 14
	" 24	June 1	" 8 Tuesday	" 15
	" 25			

Second deposite of same, made on the 14th June, 1830.

Wednesday,	June 16	June 24	July 3	July 16
	" 17	" 25	" 7	" 17
	" 18	" 26	" 8	" 19
	" 19	" 29	" 9	" 20
	" 21	" 30	" 13	" 21
	" 22	July 1	" 14	
	" 23	" 2	" 15	

Admitted that the within mentioned publications were made as stated in the within schedules and deposition. The newspapers and advertisements therein mentioned to be considered as produced and read in evidence on the trial, and found conformable to the statements within contained.

(Signed) RICHARD PETERS.

Henry C. Carey, sworn: My father was proprietor of first volume of Wheaton's Reports. I was in his employ at that time in the store in Philadelphia. The copy right department was entirely under my superintendence. My father was then very largely a publisher. I have no recollection with regard to the measures of copy right for the first volume of Wheaton's Reports. I have nothing to add but my impression that we were in the habit of doing certain things. I was old enough to do what was necessary to be done, but I do not recollect what was done. I was 23 years old in 1816; I cannot remember about any copy right at that time in particular. I remember this as well as any other. I can remember and state our general practice, but can't say whether that practice went back to 1816, and I can't tell. I recollect a visit of Mr. Wheaton, on his way to Washington, immediately after the publication of that volume. He called at my father's store on his way to Washington. I recollect he took charge of a quantity of the volumes of Wheaton's Reports for Washington. Wheaton was entrusted with the carriage of several copies of the first volume to Washington, immediately after the publication.

[Mr. Ingersoll objects. Objection overruled.]

He was entrusted by the publisher, my father, or one of his agents. I am acquainted with the usage of the bookselling and book-owning business of that day with regard to copy right.

What was the usages, is asked, with respect to the publication of the deposite?

[Excepted to by Mr. Ingersoll.]

I have said already it is impossible to remember the practice in 1816, as far back as I can recollect. I have known the fact that it was necessary to deposite a copy in the department at Washington. The same thing with regard to advertising. I recollect one practice for a great number of years, but whether that will carry me back beyond 1816 or 1817, I can't tell.

[Mr. Ingersoll objects. Objection overruled.]

I know that for several years before the date of that certificate of 1820, our practice was to deposite books in the office at Washington. There could be no contrary practice, except that of *carelessness* to omit depositing for copy right.

My answer is the same with regard to advertising. Our practice was for a great number of years to advertise. I have no recollection of any thing peculiar with respect to first volume, except Wheaton taking the volume to Washington, different from other cases. We kept no record of any kind of the deposite of books. We never kept advertisements.

We generally keep copies of letters. First volume of Wheaton's Reports was printed in N. York. All books that are to be paid for are charged, but when given away, no entry made.

Those books were bound in Philadelphia.

Robert Greenhow, of the city of Washington, a witness produced and affirmed on the part of the plaintiffs, deposes as follows:

I am at present the librarian of the Department of State. This book

now produced and shown to me is the first volume of the set of Wheaton's Reports on the shelves of the library of the Department. I this morning exhibited the same book to Mr. Henry C. Carey, and no other book. I left the city of Washington on 11th inst. with the book, and I am about to return with it. I have been in the office but a very short time. I have a letter from Mr. Forsyth on the subject of bringing the book, which I refer to, and will have in Philadelphia with the counsel.

Being cross examined, he says:

This is the only first volume of the first set or edition of Wheaton's Reports in the library of the Department of State. There is a first volume of the second set or edition, which was deposited for renewal of copy right. A great many of the books obtained by the Department of State, some time ago, have a similar inscription to that on the inside of the book now exhibited. I have never seen a writing similar to that on the outside on any book in the library. I looked for some time in the morning, and particularly in the alcove of law books, for the purpose of ascertaining. I have no idea of the handwriting of the outside. It is said that the writing inside is that of Mr. Brent. I came into the situation I now hold, as librarian, in July last. Since the year 1831, when I was employed in the Department of State, I had no particular connection with the library, but I was a good deal in it. It was under the care of a particular friend of mine. I know nothing what was done with books deposited for copy right prior to the year 1825. I am totally and entirely ignorant of it. I know an immense number of books deposited in the Department since 1831 for copy-right without being so inscribed. I know of none prior to that time. I am ignorant of the subject. I mean to say that, with regard to books that were received prior to 1831, I am ignorant whether there are or are not such as have been received for copy right without being inscribed as such.

Being re-examined in chief, says:

I am translator of the Department of State, and have been since September, 1831, and, in my official capacity, had constant recourse to the library before I united the two offices of translator and librarian. Since I have been in the Department, and before I became librarian, I have frequently, with the leave of the librarian, taken out on loan books which I knew to be deposited for copy right. Shortly after I came into the Department, a system was arranged between the Secretary and Mr. Livingston and the then librarian, which was carried into effect. Copy right books, during all the time of my experience, have been lent out indiscriminately with other books. The loan of all books is entered in a book in the office. I remember to have taken out a dozen books that I knew to have been copy right books. Sometimes books are taken out and no entry of their loan made in the book I have mentioned. Before the arrangement I have spoken of as having been made by Mr. Livingston, there was no discrimination, as far as I know, between copy right books and other books. They were all placed together, being arranged only according to their subjects.

Again cross-examined, he says:

I know of no books being taken out from the library without being registered, except in my own instance. Witness is asked whether he knows of any law books, of his own knowledge, deposited for copy-rights taken out; he answers in the negative. Prior to 1831, he knows of none. I can't recollect. I knew of books taken out being copy-right books, because it was so written in them. Others I suspect were such, because they were paltry novels. I never examined the Patent office to ascertain whether books had been deposited there for copy-right. There are four cases of books in the garret that I recollect now, deposited for copy-right, besides those which are on the shelves. I don't know how they came there. I have seen Mr. Sheaff, the librarian, carrying books up there within the last year. I don't know how books were taken out, or whether they were taken out, prior to 1831.

(Signed) ROBERT GREENHOW.

Affirmed and subscribed, Oct. 13, 1834, before

(Signed) G. BARTRAM, *Ald'n.*

Thomas L. Thruston, a witness produced by the defendants, being duly sworn, according to law, deposes as follows:

I was a clerk in the Department of State from the latter part of 1817, or beginning of 1818, until the year 1829, in the month of April. Until the 23d of November, 1819, I casually, with the other clerks in the office, attended to the copy right business. During that period, no especial duty was devolved upon any one to receive books that were deposited for the purpose of copy right. I thought the business had been done in a way that would render it difficult to investigate at a future day, and I myself prepared a set of certificates, which were bound in different books. I filled up perhaps half a dozen volumes. After the 23d November, 1819, it was usual to send certificates of deposite to the depositors. I generally performed that duty. That consisted of a copy of such as were bound and recorded. This was intended to be the uniform practice of the office. Omissions might occur easily. On the receipt of the book, it was usual for the chief clerk (who was then Mr. Brent) to enter on the title page of the book the date and objects of its reception. The book was then handed over to me, certificate issued and recorded. This practice continued up to the 28th April, 1829. Not being there afterwards, I cannot say whether it continued afterwards. Sometimes books were sent by mail, sometimes by a bookseller or merchant's clerk, or by private hand; and, indeed, the informal manner in which they were sent, led to some looseness in the manner of doing the business. The books were filed away in the office. If a book that I thought worthy of a place, it was put on the shelves of the library; if not, it was placed in the garret. Books for copy right were usually distinguished from those belonging to the library of the Department by this certificate of Mr. Brent. Those that I thought worthy of a place on the shelves, were usually entered in a catalogue, and used as library books. This was done with the inscription of Mr. Brent on the title page in them. Until

I made a list, there was none I believe. The library was not organized until I did it. There was a letter book in which all letters received by the Department were entered; and all books received for copy right, whether accompanied by letter or not, were entered in it. By applying any of the tests I have mentioned, I have never found any of the volumes of Wheaton's Reports deposited for copy right. I made an investigation as early as 1829, and found no record evidence. I have a very vague recollection of having made such investigation, (but I gave a certificate, and have no doubt I did so.) So many things occurred, it is impossible my memory should be charged with all that occurred in the office. There are Wheaton's Reports in the library of the Department. With regard to the first volume, I do not know how it came there. With regard to the subsequent volumes, my belief is, I placed them in the library from among the 80 that were received under the reporter's act. I recollect doing it in several instances annually, and my impression is, I did it with regard to the whole. I speak of the set I left there when I left the office. I believe that set (except the tenth volume, which still has my mark in it) has been mislaid or lost, and the volumes or chasms supplied. Those other volumes have no mark on them, except that in two of them the name of Fendall is written in pencil. It is clear in my recollection, that I left a complete set when I left the Department. I could hardly state that fact of any other book except of Johnson's Reports. I think, in 1823, a call by the House of Representatives was made for a list of books purchased by the Department of State. Such list was made out by myself. That list is contained in the fifth volume of Executive Papers, 2d Session, 17th Congress, 1832–'3, Document 81, of the House of Representatives. My list was furnished in manuscript, and I believe this to be a copy, which is a document printed by order of the House. [In the list furnished by me, Wheaton's Reports were included as purchased in 1817.] My usual mode of making out that list was from the bookseller's bills, selected from the accounts of the Department. I can't say whether I found a bookseller's bill in relation to the first volume of Wheaton's Reports. I have no recollection at all in regard to that. I have looked for the bill within the last month, and could not find it. I found that a bill of 1822 or 1823 was missing; that I presumed had existed at a former period, from its being mentioned on the abstract, and not found among the vouchers. All others that I searched for were found. I am not able to conclude any thing with regard to copy right from the mark on the outer corner of the first volume of Wheaton's Reports. Publishers of law books were more careful to secure their copy right than any other authors. I think I never issued a certificate for any volume of Wheaton's Reports. I speak more positively from the certificate given in my handwriting, and dated 14th February, 1829, than from my own recollection. I have no recollection of issuing any certificate for any volume of Wheaton's Reports. I would sometimes issue in an hour all the certificates for copy right of books which had been collecting in a week. I did it generally in my leisure moments. I made the

transmission by mail of the certificates. I can't say that I recollect of having known any instance in which there was an omission of the minute of the title page of a book deposited for copy right, although they might easily have occurred without my knowledge, or they may have occurred and I not recollect it. The certificate which I have referred to, as given in my handwriting, and dated 14th February, 1829, is identified by the initials of my name.

Being cross examined, says: I was librarian of the department of State, and incidentally to my duty as librarian I exercised the offices to which I have referred, concerning copy-rights. I know nothing of my own knowledge of what took place at the Patent office. When an inscription was put in a purchased book, I generally put in it the day it was put upon the catalogue, without reference to the time when it was received at the department. When a book was received for copy-right, Mr. Brent used to insert the day when it was received at the department. The books that were in the library were lent frequently, including law books. There was never a time, within my recollection, when there was not a complete set of Wheaton's Reports in the library of the Department of State from their publication. A volume might afterwards have been missing, in which case I would have supplied it. When I searched for the bill for the first volume of Wheaton's Reports, I went to Mr. Mount's room, in the Treasury Department. Nobody accompanied me. Mr. Peters directed or requested me to go there. Mr. Mount has charge of the accounts of expenses of the State Department; contingent expenses accounts we call them. These accounts contain a statement of the disbursements of the Department of State, and of the respective objects for which those disbursements are made, and each item of charge is accompanied by its proper voucher. I examined the accounts themselves, and the vouchers referring to the purchase of books. I found all the vouchers I looked for, except the one I have mentioned of 1822 or 1823. The result of that examination was, that the purchase of any volume of Wheaton's Reports did not appear among those accounts or vouchers. I made the search from the beginning of 1817, and ended it with 1823. Mr. Peters had requested me to make a search, and I made it, knowing enough of the subject to know how to make it. The books purchased for the Department of State would, according to the course of business, appear in those accounts. I was never, that I remember, present when the 80 volumes came to the department. I generally knew when they came. No objection was ever made to my taking one of them, and putting it into the library. The course of my business was such, that I considered myself authorized to do it, though I never particularly enquired whether I had the right or not. Being asked whether the business of copy-rights was not very much neglected in the office, as well as out of it, says, I cannot say it was neglected, but it was less accurately attended to than any other business there, owing in a great measure to the carelessness of the publishers. And it was more inaccurate before the practice of issuing certificates than afterwards. Moses Young was clerk, who kept the contingent expense

account, when I came to the department, I believe. I do not know whether or not the first volume of Wheaton's Reports, now in the Department of State, is the same that was there when I came there. There is nothing on it which shows that it was deposited for copy-right. The word "Department of State," I used to write in the books which I found had it not in them, just as a man writes his name in his book, and I may have done it a year or more after it came there, or I may have omitted it altogether. I did not write on the books till after the library began to assume some shape, which may have been in 1819 or 1820, I can't say when.

Re-examined, he says, I have no recollection of writing an inscription in a book a year or more after it was received in any special case.

TH. L. THURSTON.

Sworn and subscribed this eleventh day of April, 1835. Before me,

J. BURDEN,
Alder'n.

Voucher dated 28th October, 1817, from Treasury Department, for carriage of 79 volumes of Decisions of Supreme Court, offered and rejected, is in the words following, to wit:

The Department of State, to Charles Smart, DR.

1817, Oct. 28. To bringing on hack from bookstore, 79 volumes of Decisions of Supreme Court U. S., loading the same, unloading and carrying them up to a room in the third story of the building occupied by the Department of State - - - - - - - $1 25

Received payment, date above, of Mr. Young, esq.

CHARLES SMART.

TREASURY DEPARTMENT,
Register's office, 27th Jan'y, 1835.

A true copy from the original on file in this office, Report No. 289 of 5th Auditor.

T. L. SMITH, *Register.*

Be it remembered, that Thomas L. Smith, esquire, who certified the within transcript, is now, and was at the time of doing so, register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, Thomas Ewing, Secretary of the Treasury of the United States have hereunto subscribed my name, and affixed the seal of this Department, at the city of Washington, this nineteenth day of April, in the year of our Lord 1841.

[L. S.]

T. EWING, *Sec'y of Treas.*

William Elliott, a witness produced and examined on the part of the plaintiffs, deposes as follows:

In September, 1816, or earlier, I entered the Patent office, as chief clerk, under Dr. Thornton, and remained there till 12*th* May, 1829. The books sent to Washington to be deposited for copy-right were some of them sent to the Department of State, and some to the Patent office. It was the general rule to send them from the Department of State to the Patent office, and the record was kept, or supposed to be kept, at the Patent office. By record, I mean a list kept in the office to shew the fact and the times of deposite, and I do not use the word as denoting a formal record in the strict sense of the term. It had been an office regulation, and I adhered to it. There was no other list or register kept in the city of Washington, than this one, and I kept it myself. Dr. Thornton used to write in the books the words "*Department of State*," with the date when received. The books were usually accompanied by a letter from the author or proprietor, and in such case the rule was to send him a kind of receipt or certificate that the book was deposited. The Department of State and the Patent office are in separate buildings, about ¾ of a mile apart, and there used to be frequent complaints that all the books had not been sent to the Patent office. The complaints I refer to were letters from the persons who had transmitted the books to the Department of State, complaining that receipts were not sent to them. In cases where our attention was thus particularly called to the subject, we used to send to the Department of State and get the books, and then send a receipt. Often a considerable delay would elapse before that was done; and it is my belief that in many cases the books never found their way to the Patent office at all. The only data we had in the Patent office were two-fold: either, 1st, the actual delivery by the author or proprietor, in person, of the book at the Patent office, which seldom occurred; or, 2dly, the receipt of a letter at the Department of State, provided such letter was handed over to the Patent office. If a man went in person to the Department of State, and deposited the book for copy-right, without addressing any letter or accompanying communication to the Department, there would be no datum by which it would find its way to the list in the Patent office. And in that case the book might remain in the Department of State without coming to the Patent office at all. The whole business of books deposited for copy-right was an irregular one, and in the Department of State was much neglected, in my opinion. I don't mean to cast any censure on the Department, but it arose from the way in which the business was done. I have since found in the Department of State books, which I have been able to ascertain to have been deposited there for copy-right, and which were not in the list I had kept as chief clerk of the Patent office. I have no doubt that in many cases it was entirely neglected to enter the deposite of the books, or to give receipts for them to the parties. When Mr. Adams was Secretary of State, probably in 1824, in consequence of these irregularities, I was impressed with the belief that the evidence as to the deposite of books for copy-

right was very defective and inconclusive, and represented it to Mr. Adams as a great evil, and as rendering no justice to the depositors of the books. Dr. Thornton was averse to any change being made, and opposed it. None was made until Mr. Clay became Secretary of State, when my recommendation was adopted, and the books from the Patent office, and the list above mentioned, were all removed to the Department of State, and placed with the books already there under the care of the librarian of the Department, and my connection with the books was then ended. This was soon after Mr. Clay came in, and about a year, I think, after my first suggestion to Mr. Adams. Since that period, I have employed myself in endeavoring to make an authentic list of the books deposited for copy-right, and have found it a very difficult task. It contains only such books as I have been able, from the lists and entries in the Department, to ascertain positively to have been deposited for copy-right, and is so far authentic; but I would not consider the omission of particular works in this list as implying that the works were not actually deposited for copy-right, or that the fact of their deposite could not be proved by other evidence than has been within my reach. My list is a mere copy of lists in the office, and cannot be received as a complete list of books deposited for copy-right. Should it be published, I shall so state in a preface.

Being cross examined, the deponent says:

The place where books were kept, or supposed to be kept, for copy [right] was the Patent office, until the year 1825. All communications were generally sent to the Department of State. Sometimes they were not. They were sent directly to the Patent office. When they arrived at the Department of State, they were generally sent to the Patent office, with the letter that accompanied the book. As soon as they arrived at the Patent office, Dr. Thornton wrote in them when received. I entered the title page and the date in this register, and made out a certificate or receipt, which Dr. Thornton signed, and sent to the author or proprietor. That register was kept in the Patent office until 1825, and it appears that it was kept from the commencement of the Government until that time. I kept it all the time I was there. It is an original entry. I entered none but those that came to the Patent office either directly or through the Department of State, and none but such as were considered for copy right. I made no entry till I saw the book. I copied the title of the book from the title page. The Patent office was not in the same building with the Department of State in my time. It formerly had been. But, in my time, the Patent office was in the building where the General Post Office now is. I made no entry except of those books that came to the Patent office either directly or through the State Department.

I have found books at Dr. Thornton's house, which he had taken home before they were entered. He would get them at the Department of State, and if they were new and interesting, he would take them home and keep them a few days. The certificate or receipt sent to the author or proprietor was accompanied by a letter, and the record

of that letter may be found in the Patent office. I know of there being irregularity by the complaints that were made by persons that they had not received their certificates. They would write to the Department of State, complaining that they had received no acknowledgment of the receipt of their books. This letter was, I believe, *already* sent to the Patent office to be answered. Then we inquired into the case, and gave a suitable answer, either that we found the book lying there, or had not received it. The letters for books, and for every thing else, were indexed together, without discriminating between those that related to patents and those that related to copy-rights. We would examine the file containing the gentleman's name, to see if there was a former letter from him, and then we would resort to other means—examine at the Department of State. Whenever irregularity was ascertained we corrected it, and sent an acknowledgment, as far as we could; what I mean is, if a man would send a book by water, for example, although not received, yet it might still come after he had written to inquire. If we could not correct the irregularity, we always wrote to inform the party; explained that the book had not been received, or as the case might be. I have made a full and entire register to 1831, from the beginning, for publication, arranged alphabetically and analogically, according to the subjects and the names, each class alphabetically. In that register there is no entry of any volume of Mr. Wheaton's Reports, until October, 1830; I cannot remember the fact, whether it is a renewal or not. I remember there is an entry, and I invited Mr. Wheaton to come and look at it himself. I remember Mr. Brent must have come into the Department, as chief clerk, in 1817, or about that time; he had been there previously in another capacity, when Mr. Graham was there as chief clerk. My attention was called by Mr. Wheaton and Mr. Paine to a first volume of Wheaton's Reports in the library of the Department of State—the one that belongs to the set; I was requested by them to examine it, to see if it had been deposited in the usual form; if there were any marks about it by which I could know that. It was while I was in New York, in May or June, 1834, I was requested to do this on my return to Washington. I did examine it; I called on Mr. Dickens, the chief clerk, and he ordered it to be brought to me. I found an entry, I thought and believe, in the handwriting of Mr. Brent, that it belonged to the Department of State; it was not Dr. Thornton's writing, I am clear. I expected to find his writing, if it was deposited for copy right. I don't remember the exact words. It was something like this—Department of State, and the date; but the date was considerably after the time, and it was not according to the form which we had. We had a form of entry, and the figure 7 was marked in pencil. I can't say whether in the same writing. It was like a bookseller's mark. The book remains there yet; and I wrote to Mr. Paine that it did not appear to have been deposited for copy right, at least that there was nothing from which I could ascertain it; what I mean is, that there was nothing of the usual mark that we made. Mr. Brent never wrote in books, that I know of, for copy right; I never

knew him to do it. About May last I was applied to for my deposition by Mr. Paine, afterwards by Mr. Wheaton, in Washington; I told him I should be in Philadelphia, and would rather be examined there where the parties were; my object was to do justice; Mr. Wheaton appeared to be offended.

Being re-examined in chief, says: Mr. Wheaton was about to go to Europe, and the cause of his apparently being offended was the fear lest my deposition should not be taken in the cause. When I state I never knew that Mr. Brent wrote in books that were deposited for copy right, I should add, neither do I know that he did not; he had the same power to do so that we had in the Patent office. Before I went into the Patent office, and from the earliest time of my recollection, Mr. Brent had been concerned, or employed in the Department of State, though not as chief clerk, till about 1817. My recollection is not positive as to the fact of there being a date entered in the first volume of Wheaton's Reports, as I have stated in my cross examination. I remember that there was one line, which signified that this book belonged to the Department of State, but not as a deposite for copy-right, as we had entered them in the Patent office. On my return to Washington I will again visit the Department of State, and look at the volume, and will send an exact copy of what is on the book, and will state whether or not there is any date; and I desire that such statement may be taken as a part of my evidence. I remember that it was a Philadelphia bound book; it looked like one from the neatness about it, and squareness. I did not look at the binding of that book with a view of finding any thing written upon it. A small memorandum might have been written in the corner of the binding without its meeting my eye. The list of books referred to in my cross examination is the same referred to in my examination in chief.

Being again cross examined, he says: I mean that Mr. Brent had the same power as ourselves, when he was chief clerk in the Department of State. He then had power to write in the book, but I rather think he did not. I never him to do it. I considered him even the superior to Dr. Thornton, when he became chief clerk, up to 1818; and then, when we wanted any thing in the Patent office, we always applied to Daniel Brent; that is, after he was chief clerk, in 1817. Before he was chief clerk, I think *we* had nothing to do with it; at least he never took any part in the Patent office. I declined giving my deposition in Washington when Mr. Wheaton asked me, and I stated the reason, that I wished to do it when the party could cross examine. I said I had respect for both parties—Mr. Peters and Mr. Wheaton.

(Signed) WM. ELLIOTT.

Sworn and subscribed, Sept. 27, 1834, before me.

(Signed) G. BARTRAM, *Ald'n.*

WASHINGTON, *Oct.* 1, 1834.

SIR: Agreeably to what was determined on in my examination last week in Philadelphia, in the case of Wheaton vs. Peters, I yesterday

went to the Department of State and, by permission of the chief clerk (Mr. A. Dickens,) had a sight of *Wheaton's Reports*. On the first volume was written, on the cover, "D. State," but by whom I cannot say; in the inside of the cover was written "U. S." "Department of State," in the handwriting of Mr. Daniel Brent, late chief clerk, whose handwriting is well known to me. The style of binding of this volume is very different from the others. There is no date to this inscription. This will be considered the additional evidence required of me.

I am, very respectfully, yours, &c.

WILLIAM ELLIOTT.

To JOHN CADWALADER, esq.

James Murray Rush, esq., sworn.

I have heard the evidence of D. State on the 1st vol. of Wheaton. I was in Washington, and asked to look at the first volume of Wheaton's Reports. I looked at the left cover, at the very corner, in small letters; my impression was immediately that it was my father's handwriting, when he writes hastily, with whose handwriting I am well acquainted. My first and confirmed impression is very strong, but I don't speak positively, that it was my father's writing. I think this was in November or December last. My father's handwriting has changed very little. My father sailed for Europe in November, 1817.

Judge Hopkinson testified.

I believe that Mr. Wheaton was reporter in winter of 1816–'17, and was at Washington.

The acts of Congress relating to the reporter of decisions were put in evidence.

PHILADELPHIA, *June* 14, 1828.

Mr. S. GOULD, *New York:*

I have received your letter of the 12th. Mine, to which it is a reply, contains all I can say on the subject of the reports of the late decisions of the Supreme Court United States, save, only, that I am perfectly confident in the liberality of Mr. Nicklin, and that I feel assured he will, in the course of his agency for me, act with entire propriety towards yourself and all others.

I enclose, for your *private* perusal, the proposals for the work I have commenced. You will find an advantage offered to you, and to all others who shall obtain subscribers. I have no objection to modify the terms for those who undertake to procure subscribers, so as to give to every one who obtains twenty subscribers twenty per cent., fifty subscribers, twenty-five per cent., and one hundred subscribers, thirty per cent.; the subscribers to take and pay for the books before the 20, 25, or 30 per cent. shall be paid. I shall be prepared next week to attend to proposals upon this subject.

I by no means consider that the work I propose will injure the sale of Mr. Wheaton's valuable reports. In truth, very many persons will

be disposed to buy his volumes after my Condensed Cases shall come up to 1816, or anticipating that fact. I do know that many do not now purchase Wheaton, because they have not Cranch and Dallas, and who are unwilling to purchase these reports. Again, it is to be recollected that seven terms must elapse before I arrive at the year 1816. These are my sincere convictions.

I am, sir, respectfully yours,

RICH. PETERS, Jr.

Proposals for publishing, by subscription, the Cases decided in the Supreme Court of the United States, from its organization to the close of January term, 1827.

The Supreme Court of the United States has been organized for thirty-eight years, and its decisions form in themselves almost an entire code of laws. Many of the difficult and important questions of constitutional construction, and of the nature and extent of the powers reserved, granted, and claimed, under the Constitution, have passed under the careful observance and judgment of the court. International questions of the highest moment; numerous points of general commercial law; principles upon which, as its deep and broad foundations, the law of evidence rests; the construction of the statutes of the United States; the rules and statutes by which the titles derived under the United States, to the lands held by the enterprising and prosperous inhabitants of the vast and fertile regions of the south or west, are permanently governed —all have been subjects of investigations and final adjudication in this court.

The chancery jurisdiction of the Federal courts has brought before the Supreme Court, in submission to its scrutiny and judgment, most of the rules of equity practice, and much of general chancery law; and the right of appeal and writ of error, by which cases arising in the courts of the District of Columbia may be removed for final determination, has obliged the court to decide many points which, but for this domestic jurisdiction, might not have been brought under its consideration. Many of the questions which are presented in cases from the District of Columbia, are of usual occurrence in the common transactions and business of life, and are of very general application and influence.

Considerations growing out of these circumstances seem to impose the necessity that the law thus general, thus established, thus supreme, should be universally known. That there should be found but few copies of the reports of the cases decided in the Supreme Court of the United States in many large districts of our country, in which there are Federal and State judicial tribunals, is asserted to be a frequent fact. In some of those districts, it is positively averred that not a single complete copy of all the reports is in the possession of any one, and thus the great and overruling law of the land is almost unknown in many populous parts of the Union. These things should not be.

It will not be denied that these circumstances are the consequences of the heavy expense which must be incurred by the purchase of the

two volumes of the Reports of Mr. Dallas, the nine volumes of Mr. Cranch, and the twelve of Mr. Wheaton's Reports—together twenty-three volumes; the cost of which exceeds one hundred and thirty dollars.

It is proposed to publish all the cases adjudged in the Supreme Court of the United States, from 1790 to 1827, inclusive, in a form which will make the work authority in all judicial tribunals, and to complete the publication in not more than six volumes; the price of which shall not exceed thirty-six dollars. The opinion of the court upon all the points decided in every case will be given in the language of the court expressing the determination, and such a statement or abstract of the facts on the office record of the cause will be made, as will fully and accurately exemplify the decisions of the court. The reports this day published will continue the series.

The matter will not be abbreviated, so as to omit any thing which is important, or may be in any manner a part of the essential features of the case.

An abridgment is not contemplated; the work is intended to be of a higher order; and it will only be from want of ability in the editor, if it does not contain a complete and faithful representation of the material and useful parts of every case adjudged by the court up to the period stated. If there are any unpublished cases decided by the court, and the editor can obtain them, they will be inserted in this work.

An effort will be made to give a reference in each case to the parallel cases which have been decided by the court, and, in some instances, the reported and manuscript decisions upon the same questions, in the circuit courts of the United States, will be noted.

Each case will be preceded by a copious syllabus, itself a digest of the matter it contains; and, after the work shall be completed, all this matter will be arranged in a supplemental or general index, in which will be also included abstracts of the cases which may be contained in the volumes the editor, as the reporter of the decisions of the court, may publish hereafter, prior to the period when he shall have fully executed the contemplated work. This may form an additional volume, if the profession and the public shall require it.

It is not considered that the work now announced, and part of the materials for which are arranged, will interfere with the interests of those gentlemen who have preceded the reporter in the station he has the honor to hold. Deeply as he is impressed with the absolute necessity of the work announced, he would exceedingly regret such an interference. Their volumes will always be standards for reference, and of the highest authority; and every member of the profession who has ability to purchase them will own them. The legal rights of the proprietors of those most able and valuable works will be carefully respected. Nothing will be inserted in the contemplated publication but matters which are of public record, and which, from their very nature, cannot be the subject of literary property. The opinions of the court, which are public property, are referred to.

Indeed, the work proposed, like the Digest of Mr. Wheaton, in which

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was included all the points reported as decided in the volumes of Mr. Dallas and Mr. Cranch, will, it is believed, increase the demand for the original reports, as their superior merits and accuracy will, by its means, become more generally known.

A valuable addition to the library of every lawyer will soon be made in a digest of all the decisions of the courts of the United States, which is nearly completed, by Richard S. Coxe, esquire, of the city of Washington, a gentleman of great legal learning, discrimination, and judgment, upon a plan of very superior arrangement; and this, too, as well as the work which has been commenced by the reporter, will contribute to increase the reputation of the original reports of cases decided in the Supreme Court of the United States, for which the public are so largely indebted to Mr. Dallas, Mr. Cranch, and Mr. Wheaton.

Should the proposed work have the support of the profession, to whose patronage it is now respectfully submitted, it is intended to put the first volume to press without delay, and that the whole shall be completed at an early period. Subscriptions are therefore earnestly solicited, and those who are disposed to encourage the undertaking will promote its speedy accomplishment, by giving to it promptly the sanction of their names upon the subscription list.

The terms of subscription are, for each volume, neatly bound, six dollars. Booksellers and others who subscribe for twenty copies, will be entitled to a deduction of twenty per cent., and four months credit; for fifty copies twenty-five per cent., and six months' credit. The price to non-subscribers will be six dollars in boards.

Subscriptions received by Philip H. Nicklin, law bookseller, Chesnut street, Philadelphia.

PHILADELPHIA, *June*, 1828.

Defendants' evidence.

Documents of Congress, 1822–'3, relating to list of books, library, offered and rejected by the court.

William Elliott, being duly sworn according to law, says as follows: I went into the Patent office early in 1816, and remained there till 1829. I was the chief clerk, and was familiar with the mode of doing business; and kept the books. At the time I entered the office the only record that was kept of applications for copy-right was in a book wherein different entries were made when the applications came into the office; and, when they were made, they were uniformily entered in that book when they came into my hands; but then there were great irregularities. They arose in this way. The Patent office was in one building, at a considerable distance from the Department of State; the books sometimes came into the Patent office, and sometimes to the Department of State. I have digested and arranged the applications for copy-rights. The book now produced contains a digest of those entries which I have referred to, up to the year 1831. I kept an account myself all along of the applications, with a design to make a publica-

tion. Since I left the department, I got permission of Mr. Van Buren to complete my searches, and I made the digest complete to 1831. Up to 1825, the minutes or entries in the book to which I have referred were made by myself, and the digest was taken from them. Complaints sometimes came from persons who had sent their books to the Department of State, that they had not received their certificate. In that case we always referred to the Department of State. I wont say that we always found out the cause, but I don't recollect any instance in which we did not. The book to which I have referred extends from the commencement of the Government. The digests I have made, and herein have referred to, are marked with my name. One of them is a digest according to the subjects of copy-rights, the other is a digest alphabetically arranged according to the names of the authors. They are both correctly taken from the memoranda in the office book, and have been compared by myself when I made the extracts.

Being cross examined on behalf of the plaintiff says, why I use the word record or office book, I mean to designate the same list or book referred to in my former examination taken in September, 1834, and no other book. I caused the application to be made by Mr. Forsyth, for permission to pursue my search in the Department of State, and for an authentication of my list. It was made in writing, and I received a written answer from him. In consequence of that, I desisted from the work. I have read over my former deposition, and believe it to be in all respects correct, with the addition of my letter of 1st Oct., 1834, to the plaintiff and counsel. I shall send to the defendant or his counsel a copy of my correspondence with Mr. Forsyth.

(Signed,) WILLIAM ELLIOTT.

Sworn and subscribed the 14th of October, 1835.

Agreed to be so considered.

J. R. INGERSOLL, *For Def't.*
JOHN CADWALADER, *For Plt'ff.*

Correspondence, Mr. Wheaton with Department of State. Objected to, and read.

Wheaton to Brent, Oct. 13, 1817.	Brent to Wheaton, Oct. 16, 1817.
Wheaton to Brent, Oct, 25, 1817.	Wheaton to Brent, Aug. 24. 1821.
Wheaton to Brent, Aug. 30, 1822.	Wheaton to Brent, Dec. 12, 1823.
Brent to Wheaton, Aug. 23, 1825.	Wheaton to Brent, Nov. 20, 1826.
Brent to Wheaton, Nov. 24, 1826.	Brent to Wheaton, Nov. 23, 1825.

(The above correspondence has not been received by the clerk for insertion here. The appellant's counsel has agreed that it may be appended at any time, before or after the record shall have been returned to the Supreme Court.)

Levi Hollingsworth, sworn. October, 1834, being in Washington, I made a thorough search at the department whether there was any thing on record of an application of Mr. W. relative to copy right of his Reports. That registry I searched from 1814 to January, 1831. I found

no record whatever of W. Reports until 8 October, 1830. 1 volume 2d edition, revised and improved, is recorded deposited to secure copy right. That was the only notice of Wheaton's Reports that appeared in that record. This was in the library of the department. I subsequently made search over the library and in the Patent office. I next turned my attention to the books on shelves in the library; on one of the shelves, which contained law books, I found 12th volume of Wheaton's Reports. The first was bound different from the rest had written under "U. S. Department of State," and left hand case *D. State*. The rest were all lettered on the back U. S. Dep. of State. The 10th volume had also written in it "U. S. Dep. of State." The rest had no writing whatever; all the rest were lettered on the back, as well as the 10th volume also. The books in the library were generally marked U. S. Dep. of State, as the eleven were. Some few of them had written in the inside: Deposited for copy-right. And some few had a receipt in them, signed deposited for copy-right.

Not any of Wheaton's. I went upstairs in the room over the library, and found of books. The whole of them had either "Deposited for copy-right," or "Receipt of William Thornton." No volume of Wheaton's Reports was among them in the upper room. Among the books I found there [was] a catalogue of the books of the library of the Department of State. I afterwards proceeded to the Patent office, and found books deposited June, 1802, to 1825; and found them all with either "deposited for copy right or receipts in them." I next examined the Letter Book at the Patent office. I did not find any thing in it relative to Mr. Wheaton's Reports. It began in 1818.

I found nothing of a deposite by Mr. Carey of Wheaton's Reports.

I think I was in the library and up-stairs the better part of two mornings. Next day I was in the Patent office, and passed two or three hours there. I opened 50 or 100 books. My search was as thorough as could be, without looking at every book. I am positive there was no copy of Wheaton up stairs. They were the books on shelves, promiscuous.

I went there for the express purpose of making the enquiry at Mr. Peters' request.

My first visit to the department, not the first at Washington.

(*Endorsement.*)

The foregoing schedule contains a correct statement of the evidence which was given on the trial in 1838, of the issue directed by the Supreme Court.

Memorandum of what passed on trial of issue concerning error in transcribing copies of record on title leaf.

Will Mr. Peters and Mr. Cadwalader make out a statement of the entry as it appears on the record?

H. BALDWIN.

This note was written in consequence of an intimation made yesterday by Mr. Ingersoll, while Mr. Mallery was addressing the jury.

The court observed that they would receive no new evidence, or have the matter stated in the court then, but advised that it be mentioned in the morning, while the jury was calling. The above note was written this morning, while Mr. Mallery was going on. The paper (1) was handed me by Mr. Peters, and (2) by Mr. Cadwalader. I remarked that no notice would be taken of the matter without consent. If parties would consent, I would alter the issue accordingly. Mr. Cadwalader offered the agreement (A.)

Copy of paper (1) *referred to in above.*

In the 1st volume of Wheaton's Reports, on the second page after the title page, is printed the following:

DISTRICT OF PENNSYLVANIA, *ss:*

Be it remembered, that, on the *twentieth* day of December, in the *fortieth* (note, the fortieth year of the independence was 1815) year of the independence of the United States, Matthew Carey, of the said district, hath deposited in this office the title of a book, the right whereof he claims as proprietor, in the terms following, viz: "Reports of Cases argued and adjudged in the Supreme Court of the United States, February term, 1816. By Henry Wheaton, Counsellor at Law. Volume I." In conformity to the act of Congress of the United States, entitled "An act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies during the time therein mentioned;" and also to *an act* entitled an act supplementary to an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the time therein mentioned, and extending the benefits of the arts of designing, engraving, and etching historical and other prints.

D. CALDWELL,
Clerk of the district of Pennsylvania.

Wheaton's Reports has the imprint--printed by Samuel Winkle, Wiley & Co., No. 1, Greenwich street, New York; volume 1, Philadelphia, printed by Matthew Carey.

The entry in the office of the clerk of the district of Pennsylvania, states, in words:

Be it remembered that, on the *eighteenth* day of December, in the forty-first year of the independence of the United States, *A. D.* 1816, Matthew Carey, of the said district, hath deposited in this office the title of a book, the right whereof he claims as proprietor, in the words following, to wit:

"Reports of Cases Argued and Adjudged in the Supreme Court of the United States, February term, 1816, by Henry Wheaton, Counsellor at Law." Vol. I.

In conformity to the act of Congress of the United States, entitled "an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned," and also to *the* act entitled "an act supplementary to an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the time therein mentioned," and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.

D. CALDWELL,
Clerk of the district of Pennsylvania.

Differences between the printing in first Wheaton and the entry in the clerk's office:

Printed in 1st volume.	Entry in the Clerk's.
Twentieth of December.	*The* 18*th of December.*
40th year of the independence.	41st year of the independence.

Differences continued.

Printed.	Entry in the office.
An act of Congress.	*The* act of Congress.

2*d Wheaton.*

Entered in the office of the clerk of the southern district of New York, 1st day of September, in the 41st year; this was 1816. This volume was published in New York, by Robert Donaldson, in 1827.

The certificate of the clerk shews the entry to have been made on *the* 42*d year.*

Difference.

41 in volume.	42 in clerk's certificate.

3*d Wheaton.*

Printed and entered in the office of the clerk of the southern district of New York, in the 42*d year.* Published in New York, in 1818.

The certificate of the clerk of the southern district of New York is that the deposite was made in the 43*d* year.

Difference.

Printed to have been entered, the 42*d* year. Entered the 43*d* year.

Volume 10.

Printed copy states the entry to have been made in the 49th year of the independence.

Clerk's certificate the 49th year.

This was the year 1824. The volume 10 Wheaton was published in 1825.

Difference.

Entered in 1824.	Published in 1825.